

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF TEXAS  
3 AUSTIN DIVISION

3 UNITED STATES OF AMERICA ) Docket No. A 12-CR-210 SS  
4 vs. )  
5 JOSE TREVINO-MORALES (3) )  
6 FRANCISCO ANTONIO )  
7 COLORADO-CESSA (6) )  
8 FERNANDO SOLIS-GARCIA (7) )  
9 EUSEVIO MALDONADO-HUITRON (11) )  
10 JESUS MALDONADO-HUITRON (18) ) May 8, 2013

9 TRANSCRIPT OF TRIAL ON THE MERITS  
10 BEFORE THE HONORABLE SAM SPARKS  
11 Volume 14 of 15

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08:48:02 1 THE COURT: Anything before we bring in the jury.

08:48:03 2 MR. GARDNER: Nothing from the government, your Honor.

08:48:05 3 MR. ESPER: Your Honor, I had one matter. I think the  
08:48:07 4 Court's already aware of it, not realizing I had recreated the  
08:48:10 5 set of Sanford and Son here. We're going to go ahead and  
08:48:13 6 substitute a photograph of Defendant's Exhibit EH-20. Thank you.

08:48:23 7 THE COURT: I kept wondering when you were going to do  
08:48:24 8 that. And I assume no objections.

08:48:26 9 MR. GARDNER: No, your Honor.

08:48:27 10 THE COURT: He just wants to show all of that. Okay.  
08:48:30 11 And in your summarization, you can indicate that to the jury.

08:48:39 12 MR. ESPER: Thank you, your Honor.

08:48:41 13 THE COURT: All right. I have one other thing and that  
08:48:43 14 is, over the weekend, Juror No. 9, which was originally 28, who  
08:48:56 15 sits in that seat right under the camera on the far right, second  
08:48:59 16 row, indicated that some person in -- and the marshal -- she  
08:49:11 17 immediately called the marshal and he doesn't know if it's an  
08:49:18 18 employee at her husband's business or an employee where she  
08:49:24 19 works, said to her, the Zetas are close by. She immediately  
08:49:33 20 called the marshal and immediately said it made absolutely no  
08:49:37 21 difference to her.

08:49:42 22 So I'm not going to do anything at the present time.  
08:49:45 23 I'm just giving you notice of it. And then, at the end of the  
08:49:51 24 presentations, if there's any motions with regard to either of  
08:49:56 25 the two jurors who have brought up that, you need to make that --

08:50:02 1 MR. FINN: Judge, was she an alternate? She's not an  
08:50:05 2 alternate.

08:50:05 3 THE COURT: She is not an alternate.

08:50:06 4 MR. WOMACK: That's what I was going to ask. I thought  
08:50:08 5 all the four back there at the corner.

08:50:10 6 THE COURT: These four here.

08:50:14 7 MR. MAYR: The four over on that side.

08:50:15 8 THE COURT: Mr. Womack, we should have explained that  
08:50:18 9 to you earlier.

08:50:19 10 MR. WOMACK: It's probably self-evident. I just didn't  
08:50:21 11 catch the number.

08:50:22 12 THE COURT: All right. Bring the jury in.

08:50:37 13 (Jury present.)

08:53:56 14 THE COURT: Members of the jury, since we last met, has  
08:54:02 15 anyone attempted to talk to you about this case?

08:54:05 16 JURORS: No.

08:54:05 17 THE COURT: Have you talked to anyone about the case?

08:54:08 18 JURORS: No.

08:54:08 19 THE COURT: And have you learned anything at all about  
08:54:10 20 the case, outside the presence of each other in this courtroom?

08:54:13 21 JURORS: No.

08:54:14 22 THE COURT: Thank you. Show negative responses to all  
08:54:17 23 questions by all jurors.

08:54:20 24 I'm going to hand you copies of the instructions now,  
08:54:25 25 and you can follow along with them. I'm also required to read

08:54:28 1 them in your presence, but I give each of you a copy, which you  
08:54:39 2 can use. And then, I will, on top of that, at the end of the  
08:54:44 3 presentations, give you one more so that the presiding juror, who  
08:54:57 4 you'll select for your deliberations, can execute when the  
08:55:02 5 verdict is done.

08:55:10 6 Now, there is one thing about my reading it that I get  
08:55:13 7 to warn you about and that is when you get a little older,  
08:55:22 8 particularly when you've been wearing glasses since you were two,  
08:55:25 9 your eyesight is not near as well as it is when you are younger.  
08:55:29 10 So I have a big reading and the reason I tell you that is when  
08:55:35 11 I'm turning the pages, you won't be turning the pages. And I  
08:55:41 12 didn't want you worried about that.

08:55:44 13 Members of the jury, you've heard all the evidence in  
08:55:46 14 the case, and I will now instruct you on the rules of law that  
08:55:49 15 you must follow and apply in arriving at your decision in the  
08:55:53 16 case. After I read these instructions, the lawyers will have the  
08:55:57 17 right to make their final presentations, and thereafter, you will  
08:56:01 18 begin deliberation.

08:56:03 19 First, I will give you some general instructions which  
08:56:05 20 apply to every case, for example, instructions about the burden  
08:56:11 21 of proof and how to judge the believability of witnesses. Then I  
08:56:14 22 will give you some specific rules of law about this particular  
08:56:19 23 case, and finally, I will explain to you the procedures you  
08:56:22 24 should follow in your deliberations.

08:56:25 25 You, as jurors, are judges of the facts. But in

08:56:30 1 determining what actually happened, that is, in reaching your  
08:56:34 2 decision as to the facts, it is your sworn duty to follow all of  
08:56:37 3 the rules of law as I explain them to you.

08:56:41 4           You have no right to disregard or give special  
08:56:44 5 attention to any one instruction, or to question the wisdom or  
08:56:47 6 correctness of any rule I may state to you. You must not  
08:56:51 7 substitute or follow your own notion or opinion as to what the  
08:56:55 8 law is or ought to be. It is your duty to apply the law as I  
08:56:59 9 explain it to you, regardless of the consequences.

08:57:03 10           It is also your duty to base your verdict solely upon  
08:57:07 11 the evidence, without prejudice or sympathy. That was the  
08:57:11 12 promise you made and the oath you took before being accepted by  
08:57:15 13 the parties a jurors, and the parties have the right to expect  
08:57:18 14 nothing less.

08:57:21 15           You were allowed to take notes during the trial. If  
08:57:24 16 you decided to take your notes -- if you decided to take notes,  
08:57:28 17 your notes must be used only as memory aids. You should not give  
08:57:31 18 your notes precedence over your independent recollection of the  
08:57:35 19 evidence. If you did take notes, you should rely upon your own  
08:57:39 20 independent recollection of all the proceedings and should not be  
08:57:43 21 duly in -- unduly influenced by the notes of other jurors.

08:57:49 22           Notes are not entitled to any greater weight than the  
08:57:52 23 memory or impression of each juror as to what the testimony may  
08:57:56 24 have been. Whether you took notes or not, each of you must form  
08:58:00 25 and express your own opinion as to the facts of this case.

08:58:05 1 The indictment or formal charge against a defendant is  
08:58:08 2 not evidence of guilt. Indeed, the defendant is presumed by the  
08:58:12 3 law to be innocent. The law does not require a defendant to  
08:58:16 4 prove his innocence or to produce any evidence at all, and no  
08:58:21 5 inference whatsoever may be drawn from the election of a  
08:58:24 6 defendant not to testify or to produce any evidence at trial.

08:58:28 7 The government has the burden of proving the defendant  
08:58:31 8 guilty beyond a reasonable doubt, and if it fails to do so, you  
08:58:36 9 must acquit the defendant. While the government's burden of  
08:58:40 10 proof is a strict or heavy burden, it is not necessary that the  
08:58:43 11 defendant's guilt be proved beyond all possible doubt. It is  
08:58:48 12 only required that the government's proof exclude any reasonable  
08:58:52 13 doubt concerning the defendant's guilt.

08:58:56 14 A reasonable doubt is a doubt based on reason and  
08:58:59 15 common sense after careful and impartial consideration of all the  
08:59:04 16 evidence in the case. Proof beyond a reasonable doubt,  
08:59:08 17 therefore, is proof of such a convincing character that you would  
08:59:11 18 be willing to rely and act upon it without hesitation in the most  
08:59:16 19 important of your own affairs.

08:59:18 20 As I told you earlier, it is your duty to determine the  
08:59:21 21 facts. To do so, you must consider only the evidence presented  
08:59:25 22 during the trial. Evidence is the sworn testimony of the  
08:59:30 23 witnesses, including stipulations, and the exhibits. The  
08:59:34 24 questions, statements, objections and arguments made by the  
08:59:37 25 lawyers are not evidence.



08:59:40 1 The function of the lawyers is to point out those  
08:59:43 2 things that are most significant or most helpful to their side of  
08:59:47 3 the case and, in doing so, to call your attention to certain  
08:59:52 4 facts or inferences that may otherwise escape your notice. In  
08:59:57 5 the final analysis, however, it is your own recollection and  
09:00:00 6 interpretation of the evidence that controls in this case. What  
09:00:05 7 the lawyers say is not binding upon you.

09:00:10 8 During the trial, I have sustained objections to  
09:00:13 9 certain questions and exhibits. You must disregard those  
09:00:16 10 questions and exhibits entirely. Do not speculate as to what the  
09:00:21 11 witness would have said if permitted to answer the question or as  
09:00:24 12 to the contents of an exhibit. Do not consider any testimony or  
09:00:31 13 other evidence which has been removed from your consideration in  
09:00:34 14 reaching your decision. Your verdict must be based solely on the  
09:00:38 15 legally admissible evidence and testimony.

09:00:42 16 Also, do not assume from anything I may have done or  
09:00:45 17 said during the trial that I have any opinion concerning any of  
09:00:49 18 the issues in this case. Except for the instructions to you on  
09:00:53 19 the law, you should disregard anything I may have said during the  
09:00:56 20 trial in arriving at your own verdict.

09:01:00 21 In considering the evidence, you are permitted to draw  
09:01:03 22 such reasonable inferences from the testimony and exhibits as you  
09:01:06 23 feel are justified in the light of common experience. In other  
09:01:11 24 words, you may make deductions and reach conclusions that reason  
09:01:15 25 and common sense lead you to draw from the facts which have been

1 established by the evidence.

2 Do not be concerned about whether evidence is direct  
3 evidence or circumstantial evidence. You should consider and  
4 weigh all of the evidence that was presented to you. Direct  
5 evidence is the testimony of one who asserts actual knowledge of  
6 a fact, such as an eyewitness. Circumstantial evidence is a  
7 proof of a chain of events or circumstances indicating that  
8 something is or is not a fact. The law makes no distinction  
9 between the weight you must give to either direct or  
10 circumstantial evidence.

11 I remind you that it is your job to decide whether the  
12 government has proved the guilt of the defendant beyond a  
13 reasonable doubt. In doing so, you must consider all of the  
14 evidence. This does not mean, however, that you must accept all  
15 of the evidence as true or accurate.

16 You are the sole judges of the credibility or  
17 believability of each witness and the weight to be given the  
18 witness' testimony. An important part of your job will be making  
19 judgments about the testimony of the witnesses who testified in  
20 the case. You should decide whether you believe all, some part,  
21 or none of what each person has to say, and how important that  
22 testimony was. In making that decision, I suggest that you ask  
23 yourself a few questions: Did the witness impress you as honest?  
24 Did the witness have any particular reason not to tell the truth?  
25 Did the witness have a personal interest in the outcome of the

09:02:55 1 case? Did the witness have any relationship with either the  
09:02:59 2 government or the defense? Did the witness seem to have a good  
09:03:02 3 memory? Did the witness clearly see or hear the things about  
09:03:07 4 which he testified? Did the witness have the opportunity and  
09:03:11 5 ability to understand the questions clearly and answer them  
09:03:15 6 directly? Did the witness' testimony differ from the testimony  
09:03:20 7 of other witnesses? These are a few of the considerations that  
09:03:25 8 will help you to determine the accuracy of what each witness  
09:03:31 9 said.

09:03:31 10 Your job is to think about the testimony of each  
09:03:40 11 witness you have heard and decide how much you believe of what  
09:03:44 12 each witness had to say. In making up your mind and reaching a  
09:03:48 13 verdict, do not make any decisions simply because there were more  
09:03:51 14 witnesses on one side than on the other. Do not reach a  
09:03:55 15 conclusion on a particular point just because there were more  
09:03:58 16 witnesses testifying for one side on that point. You will always  
09:04:03 17 bear in mind that the law never imposes upon a defendant in a  
09:04:07 18 criminal case the burden or duty of calling the witnesses or  
09:04:11 19 producing any evidence.

09:04:15 20 Where a defendant has offered evidence of opinion  
09:04:17 21 testimony concerning truth and veracity, or honesty and  
09:04:21 22 integrity, you should consider such evidence along with all of  
09:04:24 23 the other evidence in the case. Evidence of a defendant's  
09:04:28 24 character, inconsistent with those traits of character ordinarily  
09:04:33 25 involved in the commission of a crime charged, may give rise to a

09:04:37 1 reasonable doubt, since you may think it improbable that a person  
09:04:41 2 of good character with respect to those traits would commit such  
09:04:44 3 a crime.

09:04:46 4           You've been told that witnesses Mario Alfonso Cuellar,  
09:04:51 5 Jose Vasquez, Jr., Jose Vasquez, Sr., Gerardo Mata-Morales, Jose  
09:04:59 6 Carlos Hinojosa, Raul Gerardo Guadalajara-Guia, and Jesus Enrique  
09:05:07 7 Rejon-Aguilar have been convicted of previous crimes. A  
09:05:10 8 conviction is a factor that you may consider in deciding whether  
09:05:13 9 to believe a witness, but it does not necessarily destroy the  
09:05:17 10 witness' credibility. It has been brought to your attention only  
09:05:21 11 because you may wish to consider it when you decide whether you  
09:05:25 12 believe the witness' testimony. It is not evidence of anything  
09:05:28 13 else.

09:05:30 14           You have heard the evidence of acts of a defendant  
09:05:33 15 which may be similar to those charged in the indictment, but  
09:05:38 16 which were considered on other occasions. Specifically, the  
09:05:42 17 witness Jose Carlos Hinojosa testified about bribes Defendant  
09:05:47 18 Francisco Antonio Colorado-Cessa allegedly paid to an elected  
09:05:52 19 official in Mexico to secure government contracts. You've also  
09:05:56 20 heard evidence in 2008, the Defendant Fernando Solis-Garcia spent  
09:06:03 21 -- sent multiple deposits over a short period of time for deposit  
09:06:08 22 in a bank account. You must not consider any of this evidence in  
09:06:10 23 deciding if these defendants committed the acts charged in the  
09:06:14 24 indictment. However, you may consider this evidence for other  
09:06:18 25 very limited purposes.

09:06:20 1 If you find beyond a reasonable doubt from other  
09:06:23 2 evidence in the case that the defendant did commit the acts  
09:06:26 3 charged in the indictment, then you may consider evidence of the  
09:06:31 4 similar acts allegedly committed on other occasions to determine  
09:06:37 5 whether the defendant had the state of mind or intent necessary  
09:06:39 6 to commit the crime charged in the indictment; or whether the  
09:06:44 7 defendant had a motive or the opportunity to commit the acts  
09:06:47 8 charged in the indictment; or whether the defendant acted  
09:06:51 9 according to a plan or in preparation of the commission of a  
09:06:55 10 crime; or whether the defendant committed the acts for which he  
09:06:58 11 is on trial by accident or mistake. These are the limited  
09:07:03 12 purposes for which any evidence of other similar acts may be  
09:07:06 13 considered.

09:07:08 14 The government introduced as evidence prior sworn  
09:07:10 15 testimony by Defendant Jesus Maldonado-Huitron. As I instructed  
09:07:15 16 you during the trial, this evidence may be considered only as to  
09:07:19 17 the Defendant Jesus Maldonado-Huitron. You may not consider this  
09:07:25 18 testimony in any way whatsoever as evidence with respect to any  
09:07:29 19 other defendant on trial.

09:07:32 20 The testimony of one that provides evidence against a  
09:07:35 21 defendant for immunity from punishment, or for personal advantage  
09:07:38 22 or vindication, must always be examined and weighed by the jury  
09:07:43 23 with greater care and caution than the testimony of ordinary  
09:07:47 24 witnesses. You, the jury, must decide whether the witness'  
09:07:51 25 testimony has been affected by these circumstances, by the

09:07:55 1 witness' interest in the outcome of the case, by prejudice  
09:08:00 2 against the defendant, or by the benefits that the witness has  
09:08:04 3 received as a result of being immunized from prosecution. You  
09:08:08 4 should keep in mind that such testimony is always to be received  
09:08:12 5 with caution and weighed with great care. You should never  
09:08:16 6 convict any defendant upon the unsupported testimony of such a  
09:08:20 7 witness unless you believe that testimony beyond a reasonable  
09:08:26 8 doubt.

09:08:26 9 In this case, the government has called as witnesses  
09:08:28 10 two alleged accomplices, Adan Farias and Felipe Quintero, named  
09:08:35 11 as codefendants in the indictment, with whom the government has  
09:08:38 12 entered into plea agreements. The agreements provide for lesser  
09:08:42 13 charges, immunity from prosecution for testimony in this trial,  
09:08:47 14 and recommendations for favorable sentences. Such plea  
09:08:51 15 bargaining, as it is called, has been approved of as lawful and  
09:08:54 16 proper, and is expressly provided for in the rules of this court.

09:09:00 17 An alleged accomplice, including one who has entered  
09:09:03 18 into a plea agreement with the government, is not prohibited from  
09:09:05 19 testifying. On the contrary, the testimony of such a witness may  
09:09:09 20 alone be of sufficient weight to sustain a verdict of guilty.  
09:09:15 21 You should keep in mind that such testimony is always to be  
09:09:18 22 received with caution and weighed with great care. You should  
09:09:22 23 never convict a defendant upon the unsupported testimony of an  
09:09:26 24 alleged accomplice unless you believe that testimony beyond a  
09:09:30 25 reasonable doubt.

09:09:30 1 The fact that an accomplice has entered a plea of  
09:09:35 2 guilty to the offense charged is not evidence of the guilt of any  
09:09:40 3 other person.

09:09:42 4 The testimony of a witness who is shown to have used  
09:09:45 5 addictive drugs during the period of time about which the witness  
09:09:48 6 testified must always be examined and weighed by the jury with  
09:09:52 7 greater care and caution than the testimony of ordinary  
09:09:57 8 witnesses.

09:09:57 9 You should never convict a defendant upon the  
09:09:59 10 unsupported testimony of such a witness unless you believe that  
09:10:03 11 testimony beyond a reasonable doubt.

09:10:04 12 During the trial, you've heard the testimony of Michael  
09:10:09 13 Fernald, who expressed opinions concerning his financial analysis  
09:10:13 14 of the defendants' records and the defendants' cash flows, and  
09:10:18 15 Billy Williams, who expressed his opinion the defendants were  
09:10:22 16 structuring their bank transactions to evade detection. You've  
09:10:28 17 also heard the testimony of others, including Joe Garza, William  
09:10:31 18 Johnston, Scott Lawson, Steve Pennington, Charles Cox and Butch  
09:10:36 19 Wise. If scientific, technical, or other specialized knowledge  
09:10:40 20 might assist the jury in understanding the evidence or in  
09:10:43 21 determining a fact in issue, a witness qualified by knowledge,  
09:10:47 22 skill, experience, training, or education may testify and state  
09:10:53 23 an opinion concerning such matters.

09:10:56 24 Merely because such a witness has expressed an opinion  
09:10:59 25 does not mean, however, that you must accept this opinion. You

09:11:04 1 should judge such testimony like any other testimony. You may  
09:11:07 2 accept it or reject it and give it as much weight as you think it  
09:11:11 3 deserves, considering the witness' education and experience, the  
09:11:17 4 soundness of the reasons given for the opinion, and all of the  
09:11:20 5 evidence in the case.

09:11:22 6           You will note the indictment charges the offenses were  
09:11:26 7 committed on or about specific dates. The government does not  
09:11:30 8 have to prove the crime was committed on those exact dates, so  
09:11:34 9 long as the government proves beyond a reasonable doubt the  
09:11:38 10 defendants committed the crime on dates reasonably near the dates  
09:11:43 11 stated in the indictment.

09:11:48 12           The events presented at trial happened at various  
09:11:56 13 places. There is no requirement that the entire conspiracy take  
09:12:01 14 place in the Western District of Texas, but in order for you to  
09:12:04 15 return a guilty verdict, the government must prove by a  
09:12:09 16 preponderance of the evidence that either the agreement or an  
09:12:14 17 overt act took place in this district, even if the defendants  
09:12:18 18 never set foot in the district. An overt act is an act performed  
09:12:23 19 to effect the object of a conspiracy, although it remains  
09:12:27 20 separate and distinct from the conspiracy itself. Though the  
09:12:32 21 overt act need not be of a criminal nature, it must be done in  
09:12:36 22 furtherance of the object of the conspiracy.

09:12:40 23           Unlike the other elements of the offense, this is a  
09:12:44 24 fact the government has to prove only by a preponderance of the  
09:12:48 25 evidence. This means the government has to convince you only



09:12:51 1 that it is more likely -- the word "true," counsel, should be in  
09:13:00 2 there. It is more likely than not that part of the conspiracy  
09:13:06 3 took place in the Western District of Texas. All other elements  
09:13:11 4 of the offense must be proved beyond a reasonable doubt. You are  
09:13:15 5 instructed that Austin, Dale and Elgin, Texas are located within  
09:13:19 6 the Western District of Texas.

09:13:21 7           You're here to decide whether the government has proved  
09:13:24 8 beyond a reasonable doubt the defendants are guilty of the crime  
09:13:27 9 charged. The defendants are not on trial for any act, conduct,  
09:13:30 10 or offense not alleged in the indictment. Neither are you called  
09:13:35 11 upon to return a verdict as to the guilt of any other person not  
09:13:38 12 on trial as a defendant in this case, except as you are otherwise  
09:13:42 13 instructed.

09:13:44 14           If a defendant is found guilty, it will be my duty to  
09:13:48 15 decide what the punishment will be. You should not be concerned  
09:13:51 16 with punishment in any way, and it should not enter into your  
09:13:56 17 consideration or discussion.

09:14:00 18           During the trial, some witnesses testified in Spanish.  
09:14:04 19 The Court provided a certified interpreter to translate such  
09:14:07 20 witness' testimony. Treat the interpretation of a witness'  
09:14:11 21 testimony as if the witness had spoken English and no interpreter  
09:14:16 22 was present. Do not allow the fact that testimony was given in a  
09:14:21 23 language other than English, or the fact that an interpreter was  
09:14:26 24 used, to influence you in any way. All jurors must consider the  
09:14:30 25 same evidence. Therefore, if you understood the Spanish

09:14:32 1 testimony given by any witness, disregard completely what the  
09:14:37 2 witness said in Spanish. Consider as evidence only the testimony  
09:14:42 3 provided in English by the interpreter.

09:14:45 4 The case of each defendant and the evidence pertaining  
09:14:48 5 to that defendant must be considered separately and individually.  
09:14:53 6 The fact that you may find one of the defendants guilty or not  
09:14:56 7 guilty should not control your verdict as to any other defendant.

09:15:01 8 Your verdict, whether it is guilty or not guilty, must  
09:15:04 9 be unanimous. Count 1 of the indictment accuses the defendants  
09:15:08 10 of committing the crime of conspiracy to launder money  
09:15:12 11 instruments in four different ways. The first is the defendants  
09:15:17 12 conspired to conduct a financial transaction involving the  
09:15:21 13 proceeds of unlawful -- specific unlawful activity, knowing the  
09:15:27 14 property involved in the transaction represented proceeds of  
09:15:31 15 specified unlawful activity, and knowing the transaction was  
09:15:36 16 designed, in whole or in part, to conceal or disguise the nature,  
09:15:41 17 location, source, ownership, or control of the proceeds of the  
09:15:46 18 specified unlawful activity.

09:15:50 19 The second is the defendants conspired to conduct a  
09:15:53 20 financial transaction involving the proceeds of specified  
09:15:57 21 unlawful activity, knowing the property involved in the  
09:16:01 22 transaction represented proceeds of specific unlawful activity,  
09:16:08 23 and knowing the transaction was designed, in whole or in part, to  
09:16:11 24 avoid a transaction reporting requirement under state or federal  
09:16:16 25 law.

09:16:17 1 The third is the defendants conspired to transport,  
09:16:20 2 transmit, or transfer monetary instruments or funds from a place  
09:16:26 3 in the United States to or through a place outside the United  
09:16:31 4 States, or to a place in the United States from and to a place  
09:16:35 5 outside the United States, knowing the monetary instruments or  
09:16:39 6 funds involved represented the proceeds of some form of unlawful  
09:16:43 7 activity, and knowing the transportation, transmission, or  
09:16:48 8 transfer was designed, in whole or in part, to conceal or  
09:16:52 9 disguise the nature, location, source, ownership, or control of  
09:16:57 10 the proceeds of specified unlawful activity.

09:17:01 11 The fourth is the defendants conspired to transport,  
09:17:05 12 transmit, or transfer monetary instruments or funds from a place  
09:17:10 13 in the United States to or through a place outside the United  
09:17:15 14 States or to a place in the United States from or to a place  
09:17:20 15 outside the United States, knowing the monetary instruments or  
09:17:23 16 funds involved represented the proceeds of some form of unlawful  
09:17:28 17 activity, and knowing the transportation, transmission, or  
09:17:33 18 transfer was designed, in whole or in part, to avoid a  
09:17:37 19 transaction reporting requirement under state or federal law.

09:17:41 20 The government does not have to prove all of these  
09:17:44 21 theories for you to return a guilty verdict on this charge.  
09:17:49 22 Proof beyond a reasonable doubt on one theory is enough. But in  
09:17:54 23 order to return a guilty verdict, all of you must agree that the  
09:17:58 24 same theory has been proved.

09:18:01 25 The word "knowingly," as that term has been used from

09:18:05 1 time to time in these instructions, means the act was done  
09:18:09 2 voluntarily and intentionally, not because of accident or  
09:18:14 3 mistake.

09:18:16 4 Government's Exhibit 381B has been identified as  
09:18:20 5 typewritten transcripts of the oral conversations that can be  
09:18:24 6 heard on the tape recordings received in evidence as Government's  
09:18:29 7 Exhibit 381A. The transcripts also purport to identify the  
09:18:34 8 speakers engaged in such conversations.

09:18:47 9 I have admitted the transcripts for the limited and  
09:18:49 10 secondary purpose of aiding you in following the content of the  
09:18:53 11 conversations as you listen to the tape recordings and, also, to  
09:18:57 12 aid you in identifying the speakers.

09:19:03 13 You are especially instructed whether the transcripts  
09:19:05 14 correctly or incorrectly reflect the content of the conversations  
09:19:10 15 or the identities of the speakers is entirely for you to  
09:19:13 16 determine based on your own evaluation of the testimony you have  
09:19:18 17 heard concerning the preparation of the transcripts, and from  
09:19:22 18 your own examination of the transcripts in relation to your  
09:19:26 19 hearing of the tape recordings themselves as the primary evidence  
09:19:30 20 of their own contents; and if you should determine the  
09:19:34 21 transcripts are in any respect incorrect or unreliable, you  
09:19:38 22 should disregard them to that extent. It is what you hear on the  
09:19:43 23 tapes that is evidence, not the transcripts.

09:19:47 24 Among the exhibits admitted during the trial were  
09:19:50 25 recordings containing conversations in the Spanish language. You

09:19:54 1 were also provided English-translated transcripts of those  
09:19:59 2 conversations. Those transcripts were prepared by official court  
09:20:03 3 interpreters. You must assume the translations from Spanish into  
09:20:07 4 English are accurate. Further, because all jurors must consider  
09:20:11 5 the same evidence, you must consider only the translations  
09:20:15 6 prepared by the official court interpreters, and not your own  
09:20:19 7 understanding of any Spanish language conversations.

09:20:22 8 Certain charts and summaries have been received into  
09:20:26 9 evidence. You should give them only such weight as you think  
09:20:30 10 they deserve.

09:20:32 11 Other charts and summaries were shown to you in order  
09:20:34 12 to help explain the facts disclosed by the underlying evidence in  
09:20:38 13 the case. Those charts or summaries were used for convenience,  
09:20:43 14 and were admittedly -- and were admitted merely as demonstrative  
09:20:49 15 evidence. They are not themselves evidence or proof of any  
09:20:54 16 facts. If they do not correctly reflect the facts shown by the  
09:20:57 17 evidence in the case, you should disregard those charts and  
09:21:00 18 summaries and determine the facts from the underlying evidence.

09:21:07 19 The defendants are charged in Count 1 with violating  
09:21:11 20 Title 18, United States Code, Section 1956(h), which makes it a  
09:21:17 21 crime for anyone to conspire with someone else to commit the  
09:21:21 22 offense of money laundering. The defendants are charged with  
09:21:25 23 conspiring to conduct financial transactions involving the  
09:21:31 24 proceeds of specified unlawful activities, and with conspiring to  
09:21:37 25 transfer the proceeds of specified unlawful activities to or from

1 the United States, in violation of Title 18, United States Code,  
2 Section 1956(a) (1) (B) and Section 1956(a) (2) (B) .

3 A conspiracy is an agreement between two or more  
4 persons to join together to accomplish some unlawful purpose. It  
5 is a kind of partnership in crime in which each member becomes  
6 the agent of every other member.

7 For you to find a guilt -- a defendant guilty of this  
8 crime, you must be convinced that the government has proved each  
9 of the following beyond a reasonable doubt:

10 First: That the defendant and at least one other  
11 person made an agreement to violate Title 18, United States Code,  
12 Section 1956(a) (1) (B) or Section 1956(a) (2) (B); and

13 Second: That the defendant knew the unlawful purpose  
14 of the agreement and joined in it willfully, that is, with the  
15 intent to further the unlawful purpose.

16 One may become a member of the conspiracy without  
17 knowing all the details of the unlawful scheme or the identities  
18 of all the other alleged conspirators. If a defendant  
19 understands the unlawful nature of a plan or scheme and knowingly  
20 and intentionally joins in that plan or scheme on one occasion,  
21 that is sufficient to convict him for conspiracy, even though the  
22 defendant had not participated before and even though the  
23 defendant played only a minor part. The government need not  
24 prove the alleged conspirators entered into any formal agreement,  
25 nor that they directly stated between themselves all the details

09:23:33 1 of the scheme. Similarly, the government need not prove all of  
09:23:37 2 the details of the scheme alleged in the indictment were actually  
09:23:42 3 agreed upon or carried out. Nor must it prove all of the persons  
09:23:46 4 alleged to have been members of the conspiracy were such, or that  
09:23:50 5 the alleged conspirators actually succeeded in accomplishing  
09:23:56 6 their unlawful objectives.

09:23:57 7           Mere presence at the scene of an event, even with  
09:24:03 8 knowledge that a crime has been committed, or the mere fact that  
09:24:05 9 certain persons may have associated with each other, and may have  
09:24:09 10 assembled together and discussed common aims and interests, does  
09:24:12 11 not necessarily establish proof of the existence of a conspiracy.  
09:24:18 12 Also, a person who has no knowledge of a conspiracy, but who  
09:24:23 13 happens to act in a way which advances some purposes -- some  
09:24:27 14 purpose of the conspiracy, does not thereby become a conspirator.

09:24:34 15           In determining whether a defendant is guilty or not  
09:24:36 16 guilty of conspiring to commit money laundering, you must  
09:24:40 17 consider the law regarding the object of the alleged conspiracy:  
09:24:45 18 the laundering of the proceeds of the sale and distribution of a  
09:24:49 19 controlled substance, extortion, and bribery in sporting  
09:24:54 20 contests. The government does not need to prove beyond a  
09:24:58 21 reasonable doubt that the substantive offense of money laundering  
09:25:00 22 was committed. The following offenses and their elements are  
09:25:06 23 provided to guide your determination of whether the government  
09:25:09 24 has proved beyond a reasonable doubt the charged offense of  
09:25:13 25 conspiracy to commit money laundering was committed.

09:25:17 1 The first substantive offense that you must consider is  
09:25:21 2 under Title 18, United States Code, 1956(a)(1)(B), which makes it  
09:25:27 3 a crime for anyone, knowing that the property involved in a  
09:25:32 4 financial transaction represents the proceeds of some form of  
09:25:37 5 unlawful activity, to conduct or attempt to conduct such a  
09:25:41 6 financial transaction which, in fact, involves the proceeds of  
09:25:46 7 specified unlawful activity, knowing that the transaction is  
09:25:51 8 designed, in whole or in part, to conceal or disguise the nature,  
09:25:56 9 location, source, ownership, or control of the proceeds of  
09:26:00 10 specified unlawful activity, or to avoid a transaction reporting  
09:26:06 11 requirement under state or federal law. This crime is known as  
09:26:12 12 money laundering.

09:26:14 13 As I have previously instructed you, the indictment in  
09:26:18 14 this case charges two means by which the defendants conspired to  
09:26:21 15 violate Title 18, United States Code, Section 1956(a)(1)(B). The  
09:26:29 16 first is the defendants conspired to conduct a financial  
09:26:33 17 transaction involving the proceeds of specified unlawful  
09:26:39 18 activity, knowing the property involved in the transaction  
09:26:42 19 represented proceeds of specified unlawful activity, and knowing  
09:26:47 20 the transaction was designed, in whole or in part, to conceal or  
09:26:52 21 disguise the nature, location, source, ownership, or control of  
09:26:56 22 the proceeds of the specified unlawful activity.

09:26:59 23 The second is the defendants conspired to conduct a  
09:27:04 24 financial transaction involving the proceeds of specified  
09:27:09 25 unlawful activity, knowing the property involved in the



1 transaction represented proceeds of specified unlawful activity,  
2 and knowing the transaction was designed, in whole or in part, to  
3 avoid a transaction reporting requirement under state or federal  
4 law.

5 The elements of this first substantive offense of money  
6 laundering are:

7 First: That the defendant knowingly conducted a  
8 financial transaction;

9 Second: That the financial transaction involved the  
10 proceeds of specified unlawful activity, namely, conspiracy to  
11 distribute controlled substances, extortion, or bribery in  
12 sporting contests;

13 Third: That the defendant knew that the property  
14 involved in the financial transaction represented the proceeds of  
15 some form of unlawful activity; and

16 Fourth: That the defendant knew that the transaction  
17 was designed, in whole or in part (1) to conceal or disguise the  
18 nature, location, source, ownership, or control of the proceeds  
19 of the specified unlawful activity; or (2) to avoid a transaction  
20 reporting requirement under state or federal law.

21 With respect to the second element, the government must  
22 show that, in fact, the property was the proceeds of the  
23 conspiracy to distribute controlled substances, extortion, or  
24 bribery of a sporting contest, which are specified unlawful  
25 activities under the statute.

09:28:52 1 With respect to the third element, the government must  
09:28:56 2 prove that the defendant knew that the property involved in the  
09:29:00 3 transaction was the proceeds of some kind of crime, that is, a  
09:29:04 4 felony under federal, state or foreign law, although it is not  
09:29:08 5 necessary to show that the defendant knew exactly what crime  
09:29:11 6 generated the funds.

09:29:14 7 With respect to the fourth element, the commingling of  
09:29:17 8 illegal proceeds with legitimate business funds is evidence of  
09:29:22 9 intent to conceal or disguise. Therefore, it would not be a  
09:29:26 10 defense that legitimate funds were also involved in a transaction  
09:29:31 11 involving illegal and legitimate funds combined.

09:29:36 12 I instruct you that conspiracy to distribute controlled  
09:29:41 13 substances, extortion, and bribery in a sporting contest are  
09:29:45 14 felonies. Cocaine and marihuana are controlled substances under  
09:29:49 15 the law. Extortion means the obtaining of or attempting to  
09:29:54 16 obtain property from another, with that person's consent, induced  
09:29:59 17 by wrongful use of actual or threatened force, violence, or fear.

09:30:05 18 The term "transaction" includes a purchase, sale, loan,  
09:30:09 19 gift, transfer, delivery or other disposition, or with respect to  
09:30:14 20 a financial institution, a deposit, withdrawal, transfer between  
09:30:19 21 accounts, exchange of currency, loan, extension of credit, or any  
09:30:26 22 other payment, transfer, or delivery by, through, or to a  
09:30:31 23 financial institution, by whatever means effected.

09:30:37 24 The term "financial transaction" means any transaction,  
09:30:39 25 as that term has just been defined, which in any way or degree

09:30:43 1 affects interstate or foreign commerce, involving the movement of  
09:30:46 2 funds by wire or other means, or one or more monetary  
09:30:51 3 instruments; or which involves the use of a financial institution  
09:30:55 4 that is engaged in, or the activities of which affect, interstate  
09:31:00 5 or foreign commerce in any way or degree.

09:31:04 6 It is not necessary for the government to show the  
09:31:06 7 defendant actually intended or anticipated an effect on  
09:31:11 8 interstate commerce by his actions or that commerce was actually  
09:31:16 9 affected. All that is necessary is that the natural and probable  
09:31:20 10 consequence of the acts the defendant took would be to affect  
09:31:25 11 interstate commerce. If you decide there would be any effect at  
09:31:28 12 all on interstate commerce, then that is enough to satisfy this  
09:31:33 13 element. And the effect can be minimal.

09:31:37 14 Commerce includes travel, transportation and  
09:31:40 15 communication. Interstate commerce means commerce or travel  
09:31:44 16 between one state, territory or possession of the United States  
09:31:47 17 and another state, territory or possession of the United States,  
09:31:52 18 including District of Columbia. Foreign commerce means commerce  
09:31:56 19 or travel between any part of the United States, including its  
09:32:01 20 territorial waters, and any other country, excluding its ter --  
09:32:06 21 any other territorial -- any other country, including its  
09:32:10 22 territorial waters.

09:32:12 23 The term "conduct" includes initiating or concluding,  
09:32:16 24 or participating in initiating or concluding, a transaction.

09:32:22 25 The term "proceeds" means any property derived from or

1 obtained or retained, directly or indirectly, through some form  
2 of unlawful activity, including gross receipts of such activity.

3           The second substantive offense you must consider is  
4 under Title 18, United States Code, 1956(a)(2)(B), which makes it  
5 a crime for anyone to transport, transmit or transfer a monetary  
6 instrument or funds from a place in the United States to or  
7 through a place outside of the United States, or to a place in  
8 the United States from or through a place outside of the United  
9 States, knowing that the monetary instruments or funds involved  
10 in the transportation, transmission, or transfer represent the  
11 proceeds of some form of unlawful activity, and knowing such  
12 transportation, transmission, or transfer was designed, in whole  
13 or in part, to conceal or disguise the nature, location, source,  
14 ownership, or control of the proceeds of specified unlawful  
15 activity, or to avoid a transaction reporting requirement under  
16 state or federal law. This crime is known also as money  
17 laundering.

18           As I have provided -- as I have previously instructed  
19 you, the indictment in this case charges two means by which the  
20 defendants conspired to violate 18 United States Code  
21 1956(a)(2)(B). The first is the defendants conspired to  
22 transport, transmit, or transfer monetary instruments or funds  
23 from a place in the United States to or through a place outside  
24 of the United States, or to a place in the United States from or  
25 through a place outside the United States, knowing the monetary

09:34:19 1 instruments or funds involved represented the proceeds of some  
09:34:24 2 form of unlawful activity, and knowing the transportation,  
09:34:29 3 transmission, or transfer was designed, in whole or in part, to  
09:34:33 4 conceal or disguise the nature, location, source, ownership or  
09:34:37 5 control of the proceeds of specified unlawful activity. The  
09:34:42 6 second is the defendants conspired to transport, transmit, or  
09:34:45 7 transfer monetary instruments or funds from a place in the United  
09:34:52 8 States to or through a place outside the United States, or to a  
09:34:57 9 place in the United States from or through a place outside the  
09:35:02 10 United States, knowing the monetary instruments or funds involved  
09:35:05 11 represented the proceeds of some form of unlawful activity, and  
09:35:11 12 knowing the transportation, transmission, or transfer was  
09:35:15 13 designed, in whole or in part, to avoid a transaction reporting  
09:35:20 14 requirement under state or federal law.

09:35:23 15           The first -- the elements of this second substantive  
09:35:26 16 offense of money laundering are:

09:35:28 17           First: That the defendant knowingly transported,  
09:35:32 18 transmitted, or transferred a money -- a monetary instrument or  
09:35:37 19 funds from the United States to Mexico, or from Mexico to the  
09:35:37 20 United States;

09:35:43 21           Second: That the monetary instrument or funds  
09:35:46 22 transported, transmitted, or transferred from the United States  
09:35:51 23 to Mexico, or from Mexico to the United States were, in fact, the  
09:35:54 24 proceeds of specified unlawful activity, namely, conspiracy to  
09:36:00 25 distribute controlled substances, extortion, or bribery in

09:36:05 1 sporting contests;

09:36:07 2 Third: That the defendant knew that the property  
09:36:09 3 involved in the financial transaction represented the proceeds of  
09:36:13 4 some form of unlawful activity, namely, conspiracy to distribute  
09:36:18 5 controlled substances, extortion, or bribery in sporting  
09:36:23 6 contests; and then

09:36:25 7 Fourth: That the defendant knew the transaction was  
09:36:28 8 designed, in whole or in part (1) to conceal or disguise the  
09:36:30 9 nature, location, source, ownership, or control of the proceeds  
09:36:35 10 of the specified unlawful activity; or (2) to avoid a transaction  
09:36:40 11 reporting requirement under state or federal law.

09:36:44 12 The definitions of the terms "transaction," "financial  
09:36:48 13 transaction," "conduct" and "proceeds" provided above also apply  
09:36:52 14 to this section of the statute.

09:36:56 15 A person structures a transaction if that person,  
09:37:00 16 acting alone or with others, conducts one or more currency  
09:37:03 17 transactions in any amount, at one or more financial  
09:37:10 18 institutions, on one or more days, for the purpose of evading the  
09:37:12 19 reporting requirements. Structuring includes breaking down a  
09:37:17 20 single sum of currency exceeding \$10,000 into smaller sums, or  
09:37:23 21 conducting a series of currency transactions, including  
09:37:26 22 transactions at or below \$10,000. Illegal structuring can exist  
09:37:33 23 even though no transaction exceeded \$10,000 at any single  
09:37:38 24 financial institution on any single day. The person does not  
09:37:43 25 need to know that structuring a transaction to avoid triggering

09:37:48 1 the filing requirement was itself illegal. It is sufficient that  
09:37:52 2 the person structured currency transactions with knowledge of the  
09:37:57 3 reporting requirements.

09:38:00 4 Any verdict must represent the considered judgment of  
09:38:03 5 each juror. In order to return a verdict, it is necessary that  
09:38:07 6 each juror have reached a verdict. Your verdict must be  
09:38:13 7 unanimous on each count of the indictment. Your deliberations  
09:38:15 8 will be secret. You will never have to explain your verdict to  
09:38:17 9 anyone.

09:38:19 10 It is your duty as jurors to consult with one another  
09:38:21 11 and to deliberate in an effort to reach agreement, if you can do  
09:38:25 12 so without violence to your individual judgment. Each of you  
09:38:29 13 must decide the case for yourself, but only after an impartial  
09:38:32 14 consideration of the evidence in the case with your fellow  
09:38:36 15 jurors. In the course of your deliberations, you may choose to  
09:38:41 16 reexamine your own views and even change your mind completely  
09:38:44 17 after discussing the evidence with the other jurors. However, do  
09:38:50 18 not surrender your honest conviction as to the weight or the  
09:38:53 19 effect of the evidence solely because of the opinion of your  
09:38:56 20 fellow jurors, or for the mere purpose of returning a verdict.

09:38:59 21 Remember that at all times, you are not partisans.  
09:39:06 22 You're judges: judges of the facts. Your duty is to decide  
09:39:10 23 whether the government has proven the defendants guilty beyond a  
09:39:15 24 reasonable doubt.

09:39:15 25 Upon retiring to the jury room, you should first select

09:39:18 1 one of you to act as your presiding juror, who will preside over  
09:39:22 2 your deliberations and will be your spokesperson here in court.  
09:39:28 3 A verdict form has been prepared for your convenience. You will  
09:39:30 4 take the verdict form into the jury room. When you have reached  
09:39:34 5 a unanimous agreement as to your verdict, the presiding juror  
09:39:37 6 will write the unanimous verdict of the jury in the spaces  
09:39:42 7 provided and date and sign the form. You will then return to the  
09:39:45 8 courtroom to deliver your verdict.

09:39:49 9 If, during your deliberations, you should desire to  
09:39:52 10 communicate with the Court, please reduce your message or  
09:39:57 11 question to writing, signed by the presiding juror, and pass the  
09:40:00 12 note to the security officer, who will bring it to my attention.  
09:40:03 13 I will either answer your question in writing or bring you back  
09:40:06 14 to the courtroom for other verbal instructions. Bear in mind  
09:40:10 15 that you are never to reveal to any person, not even to the  
09:40:14 16 Court, how the jury stands, numerically or otherwise, on any  
09:40:18 17 count of the indictment, until after you have reached a unanimous  
09:40:21 18 verdict. And place for my signature.

09:40:27 19 Members of the jury, after all of the arguments and we  
09:40:31 20 place you in the jury room for deliberation, the evidence will be  
09:40:35 21 available to you. If you have a note -- sometimes a question  
09:40:46 22 will come up -- write it out, give it to the security officer.  
09:40:53 23 But I want you to know that the procedure will be they will bring  
09:40:55 24 it to me, I will then have all of the parties and the lawyers  
09:41:01 25 brought back to the courtroom. I will read the note to them.



09:41:04 1 They have the right to suggest how I answer it, and then, I will  
09:41:08 2 answer it and send it back to you.

09:41:11 3 The point is, it takes time. So I will stop whatever  
09:41:16 4 proceedings I'm doing in this courtroom, and give it priority,  
09:41:20 5 but it still takes time. So don't stop your deliberations.  
09:41:25 6 Continue deliberations. Many, many times, the note that you send  
09:41:31 7 out, at one point in time, becomes meaningless later on.

09:41:35 8 Secondly, it is your memory of the evidence that is the  
09:41:45 9 basis of your verdict. We do have a transcript and Ms. Reznik is  
09:41:53 10 very good at court reporting, but only she can read the computer  
09:42:01 11 shorthand of a court reporter. So if there is a question about  
09:42:10 12 exhibits or testimony, it is your memory that will control. So  
09:42:18 13 you feel expressive on your own memory and you can, of course,  
09:42:21 14 use your notes for that.

09:42:23 15 And then, finally, you're going to have to have  
09:42:26 16 patience. Each party wanted a lot of time to argue the case.  
09:42:33 17 I've limited the government to an hour and a half, and I have  
09:42:40 18 limited each of the defendants to 45 minutes. Now, if they want  
09:42:44 19 to gain your favor, they can give you some time back. And we'll  
09:42:51 20 take appropriate breaks as we proceed.

09:42:54 21 Remember the government has the duty of establishing  
09:42:57 22 guilt beyond a reasonable doubt, and that's what the United  
09:43:00 23 States Attorney will try to influence you to do. Remember the  
09:43:05 24 defendants have exactly the opposite motivation, and that's what  
09:43:10 25 their lawyers will try to influence you to do, and that is to

09:43:14 1 find not guilty. What they say can be very helpful in your  
09:43:23 2 deliberations, but remember it is argument. None of them have  
09:43:28 3 taken an oath. None of them have given any testimony. It is the  
09:43:34 4 evidence that controls.

09:43:37 5 The government may make their opening statements.

09:43:43 6 GOVERNMENT'S CLOSING STATEMENTS

09:43:59 7 MS. FERNALD: Good morning. This will be the last time  
09:44:04 8 that I get to address you. I get to make the first opening  
09:44:09 9 remarks to you on our close, and then, each of the defendant's  
09:44:13 10 attorneys will have a chance to make remarks to you. And because  
09:44:18 11 of the government's burden of proof, Mr. Gardner will finally get  
09:44:21 12 to wrap it up.

09:44:24 13 So I don't want to lose this moment to tell you -- I  
09:44:27 14 think it's fair from all of the parties -- just how much we  
09:44:31 15 appreciate you sitting here for four weeks listening to the  
09:44:34 16 testimony. To say thank you sounds somewhat trite for the  
09:44:41 17 sacrifice that you've made. As you know, none of this can occur  
09:44:44 18 from either side with the defendants and with their counsel  
09:44:48 19 unless you are here doing this. Thank you very much.

09:44:52 20 Ladies and gentlemen of the jury, this case is  
09:45:12 21 conspiracy to commit money laundering. This case is Miguel  
09:45:20 22 Trevino-Morales, "40," and his brother Omar Trevino-Morales,  
09:45:26 23 "42." They are the leaders of the Los Zetas organization. A  
09:45:32 24 cartel that has made a financial empire off of illegal  
09:45:39 25 activities, off of drugs, off of extortion and kidnapping, and

09:45:44 1 off of bribery of sporting events, and I submit to you, many  
09:45:48 2 other illegal activities.

09:45:52 3           These individuals have made this fortune, but the  
09:45:58 4 currency that they have in their possession is only as good as a  
09:46:02 5 piece of paper, and it will rot buried in the ground unless they  
09:46:07 6 can exchange it and place it into commerce. They can't go out  
09:46:13 7 and buy houses. They can't go out and buy fancy cars. They  
09:46:18 8 can't do anything because of who these two individuals are. They  
09:46:24 9 have to be able to use other individuals in order to invest the  
09:46:30 10 money that they have made off of their illegal activities.

09:46:35 11           And what better way to do this than through their  
09:46:42 12 favorite hobby, quarter horses. It is an industry that I think  
09:46:50 13 that you've heard from this witness stand that is not totally  
09:46:54 14 uncommon for nominee purchasers or for other people to make bids  
09:46:59 15 for them or nominee companies. It's an industry that accepts  
09:47:05 16 that, and it's perfect for them because they need to be able to  
09:47:12 17 launder or wash their dirty money.

09:47:18 18           And who do they need? Well, they need to be able to  
09:47:25 19 use these individuals to feed and fuel their egos. And I could  
09:47:31 20 put up 100 pictures up here. But Mr. Piloto is a great example  
09:47:38 21 of the shiny penny to feed and fuel their ego. The celebration,  
09:47:44 22 the fast horses, the racing, the excitement. But probably more  
09:47:52 23 important, ladies and gentlemen of the jury, is they need to be  
09:47:56 24 able to establish their legacy. They need to after they are no  
09:48:04 25 longer here, to be able to take care of their family.

09:48:12 1 Who else could be better as the leader of this  
09:48:18 2 conspiracy in the United States than their trusted brother Jose  
09:48:25 3 Trevino-Morales? He's unsuspecting. He has not been involved in  
09:48:31 4 the drug business here in the United States. He's perfect. But  
09:48:37 5 they also need -- he's a mason, he's a bricklayer. They need to  
09:48:42 6 be able to use a -- an apparent businessman in which large sums  
09:48:51 7 of money can flow through his bank account and no one would be  
09:48:55 8 suspicious. And who else is better than Francisco  
09:49:03 9 Colorado-Cessa?

09:49:05 10 And they also need help with people in the United  
09:49:09 11 States who are familiar with the quarter horse industry, people  
09:49:15 12 like Fernando Garcia, who knows about horses, who is an agent,  
09:49:22 13 who can speak Spanish for the other coconspirators that come up  
09:49:28 14 from Mexico, like Carlos Nayan. And they need trainers, people  
09:49:35 15 who train their horse -- horses, to keep their horses, to feed  
09:49:39 16 them, to water them. Eusevio Huitron. And, of course, paying  
09:49:48 17 people to launder their money, their structured deposits. And  
09:49:51 18 once those structured deposits come into their accounts, that  
09:49:56 19 they could take that money, funnel it back to the horsemen's  
09:49:59 20 accounts to other coconspirators.

09:50:04 21 Now, I don't want to steal any thunder from any of the  
09:50:09 22 attorneys that are going to talk to you for the next several  
09:50:11 23 hours, but I submit to you that the most important thing that  
09:50:18 24 will be said to you today has already been said from the bench,  
09:50:23 25 and those are the jury instructions that you have in front of

09:50:26 1 you. For the first time, you get to take into context the  
09:50:31 2 testimony that came from the witness stand and how it applies to  
09:50:35 3 the law in this case; and you get to go back to the jury room and  
09:50:40 4 get to discuss it with each other for the first time.

09:50:44 5 The jury instructions that have been given to you is  
09:50:47 6 what guides you in your discussions back there. Ladies and  
09:50:53 7 gentlemen, the criminal law is not complicated. Most of these  
09:50:56 8 instructions are based upon common sense and most of the things  
09:51:00 9 that you've known since the fifth grade. But it's important to  
09:51:05 10 you because, for the first time, you get to use it in connection  
09:51:09 11 with actual testimony going on.

09:51:12 12 So I want to spend my time using my teaching skills, as  
09:51:19 13 an elementary teacher, going through some of these instructions  
09:51:23 14 with you and talking to you about it and what they mean in  
09:51:26 15 comparison with the law.

09:51:30 16 The first jury instruction that you have is the simple  
09:51:35 17 term "beyond a reasonable doubt" that you've heard. The  
09:51:40 18 government has the burden of proof beyond a reasonable doubt of  
09:51:44 19 each element of the offense. For the first time, you get the  
09:51:49 20 instruction on that. What is beyond a reasonable doubt? Well, I  
09:51:54 21 submit to you that what the jury instructions say is what you  
09:51:59 22 think it would say. It says, a reasonable doubt is a doubt based  
09:52:03 23 upon reason and common sense after a careful and impartial  
09:52:09 24 consideration of all of the case.

09:52:11 25 The instruction goes on to say, the government need not

09:52:15 1 prove to you beyond all doubt. That would be unrealistic. But  
09:52:18 2 it has to be something that is reasonable and based upon your  
09:52:27 3 common sense.

09:52:28 4           Next noteworthy instruction is direct versus  
09:52:33 5 circumstantial. You've heard a little bit about this before. Of  
09:52:35 6 course, direct evidence is what you -- exactly what you think  
09:52:38 7 it's going to be. It's the testimony that you hear from the  
09:52:40 8 witness. It is either something that is heard or something that  
09:52:45 9 is said that is related to you. Circumstantial evidence, the  
09:52:50 10 famous example of the rain. You go to bed at night, you hear the  
09:52:53 11 thunder and lightning, the pitter patter. You get up the next  
09:52:56 12 morning, the streets are wet, your driveway and grass is wet, and  
09:52:59 13 you can conclude from circumstantial evidence that it rained the  
09:53:03 14 night before. The last sentence, though, is what the law tells  
09:53:10 15 you is that the law makes no distinction between the weight that  
09:53:16 16 you give to either direct or circumstantial evidence.

09:53:24 17           The next is credibility of the witness. The first  
09:53:33 18 line. You, ladies and gentlemen of the jury, you are the sole  
09:53:37 19 judges of the credibility of the witnesses. I would not get up  
09:53:42 20 here and try to convince you, one way or the other, to believe or  
09:53:46 21 disbelieve any of these witnesses that took the stand. We  
09:53:50 22 presented over 60 witnesses to you. Ten of which were  
09:53:55 23 cooperating defendants. I will leave that to your discretion.

09:54:00 24           But what I will point out to you is with those ten  
09:54:03 25 defendants that took the witness stand, their stories were

09:54:09 1 consistent. Their stories were consistent about this cartel and  
09:54:16 2 organization getting into the quarter horse industry and the  
09:54:23 3 roles of these defendants sitting at this table.

09:54:27 4 But I will tell you that the government did not go out  
09:54:32 5 and try to find these ten particular type of witnesses. Those  
09:54:39 6 ten cooperating defendants that testified before you, they were  
09:54:44 7 invited here by these five men sitting over at this table. That  
09:54:52 8 is who these five men associate with. That's who they do  
09:54:58 9 business with.

09:55:02 10 It is the government's job to organize and place  
09:55:07 11 witnesses that we find them up on the witness stand. And  
09:55:15 12 speaking of organization, you have a ton of evidence here. There  
09:55:23 13 is basically not only the witness stand and the testimony that  
09:55:26 14 comes from the witness stand, but you already have the search  
09:55:31 15 warrant evidence and you have the subpoenaed evidence. We  
09:55:38 16 attempted to mark the boxes and have all of it identified for you  
09:55:42 17 what will be contained and somewhat of a labeling.

09:55:45 18 If you get to a box that has a sleeve and it has a  
09:55:54 19 little white piece of paper, that should indicate to you that  
09:55:58 20 it's some type of subpoenaed material. We also did the  
09:56:05 21 color-coding of the search warrant evidence that we kind of  
09:56:10 22 talked about with you. If you find a document that is in the  
09:56:16 23 orange sleeve with the orange piece of paper, it won't have  
09:56:21 24 Lexington on there, but that is to indicate to you that this  
09:56:24 25 evidence is located in Lexington, Oklahoma with the Trevinos.

09:56:29 1 The green, this will be Austin, Texas or Dale, Texas  
09:56:33 2 with the Huitrons. Balch Springs, Texas is the Dallas, Texas  
09:56:39 3 area, the Trevinos' other residence. Mission, Texas is going to  
09:56:45 4 be in red with Fernando Garcia. And, also, Fernando Garcia in  
09:56:51 5 the purple. And then, finally, the California with Carlos Nayan  
09:57:00 6 will be in yellow. Now, if I go too fast for some of you trying  
09:57:05 7 to write notes down, Government's Exhibit 405A is a listing of  
09:57:11 8 the search warrant evidence, and you can tell, this looks a  
09:57:14 9 little bit red, but the orange is listed here for the Oklahoma.  
09:57:20 10 Third page will start with the green with Austin, and so forth,  
09:57:23 11 so that you'll have a little bit of a category to go by on that.

09:57:27 12 The defendants in this case have been charged with  
09:57:55 13 money laundering or conspiracy to commit money laundering, and  
09:57:59 14 I'm going to do it a little bit backwards because even though  
09:58:01 15 they've been charged with conspiracy, you have to understand what  
09:58:04 16 the money laundering statute says in order to even get to the  
09:58:08 17 conspiracy.

09:58:11 18 The government has alleged two statutes that these  
09:58:16 19 defendants have potentially violated. And I'm going to submit to  
09:58:20 20 you that each one of these particular statutes, you're going to  
09:58:24 21 find evidence that has been presented to you that these  
09:58:27 22 defendants participated in. But what's important is the  
09:58:31 23 government only has to prove one of these ways. I'll talk a  
09:58:36 24 little bit because this is going to be important to know the  
09:58:39 25 distinction when you get to the verdict form that Judge Sparks



09:58:42 1 just talked to you about.

09:58:43 2           The first way is which money laundering has been  
09:58:48 3 alleged to be violated by these defendants is contained in Title  
09:58:52 4 18, United States Code, 1956(a)(1)(B). That is a financial  
09:59:03 5 transaction. We're going to talk a little bit about it because  
09:59:07 6 from a specified unlawful activity, that is either to conceal or  
09:59:11 7 to avoid the reporting requirement.

09:59:16 8           The second way comes from 1956(a)(2)(B). It's the  
09:59:22 9 international movement of funds that comes from a specified  
09:59:27 10 unlawful activity that is either to conceal or to avoid the  
09:59:32 11 reporting requirements. The first element of the money  
09:59:38 12 laundering that the government must prove to you beyond a  
09:59:42 13 reasonable doubt -- and I should say, I have combined some of  
09:59:44 14 these elements together to try to make it easier because there's  
09:59:47 15 a lot of legal terms that are contained in the money-laundering  
09:59:50 16 statute.

09:59:52 17           The overall view of the money-laundering statute is  
09:59:55 18 that the law does not want one to benefit from illegal gains, and  
10:00:02 19 so, you have the money laundering statute. Judge Sparks'  
10:00:06 20 instructions to you, not what I give you, is controlling in this  
10:00:10 21 case. But hopefully this will kind of summarize it a little bit.

10:00:17 22           A specified unlawful activity, you've heard that  
10:00:20 23 several times, over and over again. We commonly refer to it as  
10:00:23 24 an SUA. What is a specified unlawful activity? It's proceeds  
10:00:30 25 from that. In this particular case, the government has given you

1 three specified unlawful activities. It is sufficient for you to  
2 only find for one, although evidence has been presented to you on  
3 all three of these.

4 The first one, drug proceeds. The drug proceeds that  
5 come from the Los Zetas cartel. One witness on the witness stand  
6 testified to you that over 40 tons of this poison comes into the  
7 United States from the Los Zetas. That is close to \$350 million  
8 a year from this one person. Twenty to 25 million per month.  
9 This is some of the evidence that you were given from the  
10 Huitrons' homes of the drugs seized by the Los Zetas.

11 Extortion. Extortion, you will remember the chilling  
12 effect from this witness stand on Alfonso Del Rayo and how he  
13 told you that he was kidnapped and tortured for days by members  
14 of the cartel with the gun, an assault rifle hit into his head  
15 and beaten so much that he thought he was going to die. That is  
16 extortion when they release him and then, make him go buy horses  
17 for them.

18 Or the other specified unlawful activity, bribery. You  
19 heard from the witness stand the bribery that went on with  
20 Tempting Dash. But, ladies and gentlemen, you also saw it  
21 through the calls that were intercepted by law enforcement on the  
22 Title III in this case. And specifically, the conversation that  
23 we're going to give all of them 500 and a thousand to the starter  
24 at the gate. Just several days before the race. Yes, it's 500  
25 for each SOB, a thousand -- it's 500 each and a thousand for the

10:03:06 1 one who touches it, the horse, and he wants 4 for himself.

10:03:14 2 You also remember in that conversation on "42," he  
10:03:22 3 wants to run because once the jolts are applied, doesn't matter.

10:03:27 4 Those are the batteries on the hand that they're talking about.

10:03:37 5 Knowingly. The government must prove to you beyond a  
10:03:40 6 reasonable doubt that this specified unlawful activity and the  
10:03:44 7 money laundering was knowingly. Mr. Gardner is going to address  
10:03:49 8 this particular element with you in the final close. And I want  
10:03:53 9 you -- or I ask you to listen carefully to the evidence that the  
10:03:58 10 government will rely upon in establishing knowingly.

10:04:04 11 But I have to remind you of one of my favorite sayings  
10:04:08 12 as it comes to knowingly. It's an old-fashioned one because you  
10:04:11 13 cannot know what another human being is thinking. Your words  
10:04:17 14 speak so loudly. I can hear what you are saying. It is that  
10:04:24 15 your actions are the ones that speak so loudly. You have to  
10:04:28 16 determine what is in someone's head by the way that they act.

10:04:36 17 The third element that the government must prove to you  
10:04:40 18 beyond a reasonable doubt in order to sustain a conviction of  
10:04:44 19 money laundering is a financial transaction. A financial  
10:04:50 20 transaction is defined as something that touches interstate or  
10:04:53 21 foreign commerce. It just has to touch it. Nothing fancy about  
10:04:59 22 it. It's the way that we get jurisdiction, the federal law gets  
10:05:03 23 jurisdiction over a particular case. It goes on to define that  
10:05:10 24 with a financial transaction, it's anything with a financial  
10:05:13 25 institution, banks.

10:05:15 1 And you'll recall, Special Agent Pennington talked  
10:05:18 2 about banks and FDIC. That is the reason why you heard testimony  
10:05:22 3 to that effect. It's the reason why you looked at the bank  
10:05:25 4 accounts and looked at particular transactions: because we must  
10:05:28 5 prove to you that the financial transactions went through banks  
10:05:32 6 on this particular element.

10:05:36 7 It can be movement of funds by wire as defined by the  
10:05:40 8 statute. And I'm going to give you some examples of these. But  
10:05:47 9 before I caution you on some of the examples, they are not all  
10:05:50 10 inclusive. I have just hit on a few of them. We'd be up here  
10:05:54 11 for days if I went through everything. And I'd also caution you  
10:05:57 12 that sometimes even though an example may fall under one of these  
10:06:01 13 categories, you could interchange them. In fact, some of these  
10:06:05 14 transactions that you've reviewed will hit all of these different  
10:06:10 15 elements, even though we only have to prove one.

10:06:15 16 You remember Investigator Schutt talking to you about  
10:06:23 17 310A. This is Fly First Down. And we went through all of the  
10:06:26 18 different race entries, race fees, vet fees, boarding fees,  
10:06:33 19 insurance fees. Any of those that go through a bank, a financial  
10:06:37 20 institution, meets this particular prong. If you have specified  
10:06:43 21 unlawful activity, it's knowingly done, these transactions as  
10:06:48 22 defined by law goes through a bank, you've met that prong.

10:06:55 23 You remember with Blues Girls Choice, all of the  
10:06:58 24 different ones that were given to you not only to show the  
10:07:01 25 association of the members in this particular conspiracy but,

10:07:06 1 also, to show you the transactions. We have witnesses up there,  
10:07:11 2 we'd go through the records and with the bank records. That is  
10:07:13 3 why that was done meticulously is for this element right here.

10:07:20 4 And finally, Blues Ferrari that I think you'll hear  
10:07:23 5 about a little bit from Mr. Gardner. So you could have a  
10:07:29 6 specified unlawful activity, knowingly, financial transaction,  
10:07:35 7 or, as I said before, the international movement of money.  
10:07:40 8 Simply what it says, money coming across the border is basically  
10:07:43 9 what that is.

10:07:46 10 What did we present to you on this particular element?  
10:07:51 11 Grupo Aduanero coming from Mexico, Basic Enterprises coming from  
10:07:57 12 Mexico, ADT Petro Servicios, Mr. Colorado-Cessa's company coming  
10:08:01 13 from Mexico. And we also gave you this example. Remember Victor  
10:08:09 14 Lopez coming from over the border, taking \$35,000 in cash,  
10:08:17 15 walking it to the car, truck, dropping it off and heading back.  
10:08:25 16 You know why he did that? I submit to you that he did it to  
10:08:32 17 conceal. And he also -- as I told you, single transactions  
10:08:37 18 falling under different categories -- he also did it, as we'll  
10:08:40 19 talk later, to avoid the reporting requirements.

10:08:45 20 If either of these specified unlawful activities,  
10:08:50 21 knowingly done, financial transaction or an international  
10:08:53 22 movement, is done to conceal, then you meet two different types  
10:09:01 23 of the four theories that the case was -- that the government has  
10:09:05 24 charged in this case. So specified unlawful activity, knowingly,  
10:09:10 25 financial transaction, to conceal, that's one way. Specified

10:09:15 1 unlawful activity, knowingly, international movement to conceal,  
10:09:21 2 that's a second way.

10:09:23 3 What did the government prove to you on concealment?  
10:09:28 4 Well, nominee companies. We talked about these companies over  
10:09:32 5 here, Grupo, Basic and ADT. Those are nominee companies, too,  
10:09:37 6 but they all funded Tremor, Poker, Bonanza and Desiree Princess.  
10:09:46 7 Those are examples of concealment. Nominee purchasers. Examples  
10:09:50 8 that the government gave to you.

10:09:53 9 Hernando Guerra that testified very early on in trial  
10:09:56 10 that Villarreal had set him up to do some of this for,  
10:10:01 11 Villarreal, Carlos Nayan, Colorado-Cessa, and the list could go  
10:10:06 12 on and on. Again, this is not limited to the ones that I have  
10:10:10 13 put up here.

10:10:12 14 The cash transactions themselves is a prong of  
10:10:16 15 concealment. It's an example of the concealment that we've given  
10:10:19 16 you because you can't trace cash. That's why transactions are  
10:10:25 17 done in cash. Bidders that went. You'll remember so many. Raul  
10:10:32 18 Ramirez that goes and bids for the \$2.2 million that  
10:10:36 19 Colorado-Cessa has someone to write the check and he signs for.  
10:10:41 20 Carlos Nayan, Villarreal and, of course, our extortion,  
10:10:46 21 kidnapping. Victim Del Rayo even goes and does some bidding for  
10:10:51 22 the organization.

10:10:52 23 Boarding in different names. Back to what Investigator  
10:10:56 24 Schutt had talked about into this particular case. And finally,  
10:11:00 25 the commingling. There was testimony and there was

10:11:04 1 cross-examination regarding the commingling of legitimate funds  
10:11:08 2 from Colorado-Cessa and from Jose Trevino. And what the law  
10:11:13 3 tells you is that once you had these commingled funds, it is not  
10:11:20 4 a defense that it was coming from a legitimate source.

10:11:25 5 Commingling funds, you'll recall the example given to  
10:11:30 6 you by Agent Fernald, and that is the spike in the punchbowl  
10:11:37 7 because if you have clean stuff and you put the liquor in, then  
10:11:40 8 it's all commingled at that point.

10:11:42 9 MR. DEGEURIN: Excuse me, I'm going to have to object.  
10:11:45 10 I think that the charge that the Court gives is more accurate of  
10:11:50 11 the law than that overall example given by the agent. It is  
10:11:56 12 confusing.

10:11:57 13 THE COURT: Well, the objection --

10:11:59 14 MR. DEGEURIN: And I ask that that jury --

10:11:59 15 THE COURT: The objection is overruled with the  
10:12:02 16 exception that I tell the jury that the structuring definition in  
10:12:07 17 the charge is the one you follow. The lawyers are permitted to  
10:12:12 18 give you examples, both sides. You may proceed.

10:12:16 19 MS. FERNALD: Judge Sparks' ruling and his law and his  
10:12:20 20 instructions to you are controlling. I'm merely trying to  
10:12:26 21 paraphrase this. The commingling, the spiking of the punchbowl,  
10:12:29 22 that once it is spiked, it becomes all dirty, and you can even  
10:12:33 23 take a cup and walk around and no one's going to know that it's  
10:12:38 24 got liquor in it. That is the concealment part of this  
10:12:41 25 particular one.

10:12:42 1 And what the law does say is that it's no defense,  
10:12:49 2 legitimate funds are involved. It's in your instructions. Or  
10:12:54 3 and here comes theory number three and number four. If you have  
10:12:59 4 a specified unlawful activity, knowingly, financial transaction,  
10:13:05 5 done to avoid the reporting requirements of the CTRs, then that  
10:13:09 6 is sufficient for the third theory of the government's case. Or  
10:13:14 7 if you have specified unlawful activity, knowingly, and you have  
10:13:19 8 international movement for the reporting requirement to avoid the  
10:13:23 9 reporting, that's the fourth theory.

10:13:27 10 CTR, you're going to throw tomatoes if I talk to you  
10:13:32 11 anything more about CTRs. Fernando Garcia, similar acts that  
10:13:35 12 have been charged when he spends four-and-a-half hours driving  
10:13:39 13 around on the structured deposits. And finally, Jesus Huitron  
10:13:44 14 who collects over \$500,000, a half a million dollars in 22 months  
10:13:51 15 in his account.

10:13:57 16 But, ladies and gentlemen of the jury, these defendants  
10:14:01 17 are not charged with those substantive money-laundering counts.  
10:14:07 18 They are charged with conspiracy to commit money laundering, and  
10:14:13 19 that's what gets them in this case. I submit to you, that each  
10:14:16 20 one of these defendants did substantively commit a  
10:14:22 21 money-laundering violation, but that's not what they are charged  
10:14:25 22 with. Make your job easier, once you read this conspiracy law  
10:14:31 23 that has been given to you by Judge Sparks on what is a  
10:14:37 24 conspiracy, because if you find that any members, Miguel Trevino,  
10:14:46 25 Omar Trevino, Victor Lopez, Villarreal, whomever participated in



10:14:51 1 this conspiracy and that any of these five joined in willfully to  
10:14:58 2 commit a violation of money laundering, then they are guilty of  
10:15:05 3 conspiracy charge.

10:15:07 4           It is noteworthy to go through this charge with you  
10:15:10 5 again. Conspiracy. It is partnership in crime. What must the  
10:15:19 6 government prove to you the words to establish a conspiracy?  
10:15:24 7 Element number one, that the defendant and at least one other  
10:15:28 8 person made an agreement to violate the law, the money-laundering  
10:15:32 9 law. Number two, that the defendant knew the unlawful purpose of  
10:15:40 10 the agreement, as will be addressed by Mr. Gardner, and joined in  
10:15:44 11 willfully. That is with the intent to further the unlawful  
10:15:49 12 purpose.

10:15:49 13           And I will submit to you, ladies and gentlemen, that is  
10:15:53 14 all that the government has to prove to you. We do not have to  
10:15:57 15 prove to you an overt act, as you have heard. We don't have to  
10:16:02 16 prove that an action actually was done to further it, just that  
10:16:08 17 they joined with the intent to further the conspiracy.

10:16:14 18           And the next paragraph explains to you why. One may  
10:16:19 19 become a member of a conspiracy without knowing all of the  
10:16:23 20 details. You just have to know that there is an unlawful nature  
10:16:31 21 of a plan or a scheme. And that just on one occasion you join,  
10:16:41 22 it is sufficient to convict that individual, even though that  
10:16:44 23 person has not participated in before or after. The joining of  
10:16:51 24 one time is sufficient for a conspiracy count.

10:16:55 25           The government need not prove that all of the

10:16:58 1 conspirators entered into any formal agreement. Hey, are you a  
10:17:03 2 drug dealer? No. I'm not a drug dealer. You want to join into  
10:17:05 3 this conspiracy? I submit to you that our law is based upon  
10:17:10 4 reason and common sense. It's not the way that it works. The  
10:17:17 5 government need not prove all of the details of the alleged --  
10:17:21 6 scheme alleged in the indictment were actually agreed upon or  
10:17:24 7 carried out. Nor must it prove that all persons alleged to have  
10:17:33 8 been members of the conspiracy were such or the alleged  
10:17:35 9 conspirators actually succeeded in accomplishing their unlawful  
10:17:39 10 objectives.

10:17:42 11           There are some overt acts that are outlined to you in  
10:17:46 12 the superseding indictment. The government does not have to  
10:17:50 13 prove a single one of those, but they're there as a guide for you  
10:17:55 14 to go through the chain of events that we have tried to establish  
10:17:59 15 through the witnesses and the evidence that is given to you. Let  
10:18:05 16 me give you one example of conspiracy. I won't make it long.

10:18:08 17           Under this particular law and the elements that the  
10:18:13 18 government has given to you, or must prove to you, if Doug  
10:18:23 19 Gardner is a bank robber -- I mean, that's all he does, he goes  
10:18:26 20 from bank to bank robbing all of the time. If Steve Pennington  
10:18:31 21 knows this and agrees to join in with him, formally, informally,  
10:18:37 22 whatever, and takes his government paycheck and he goes out and  
10:18:41 23 he even thinks about purchasing a car for Doug Gardner to drive  
10:18:47 24 to the bank robbery, Mr. Pennington here is guilty of conspiracy  
10:18:53 25 to commit bank robbery under this theory right here.

10:18:57 1 And if you want to take it a step further, if Agent  
10:19:01 2 Lawson over here, if he knows that Mr. Gardner is a bank robber  
10:19:08 3 and he wants Mr. Gardner to get to this bank robbery and is going  
10:19:13 4 to provide a tank of gas to the car that Mr. Pennington has  
10:19:17 5 purchased for him so that he can drive it to a bank, under this  
10:19:22 6 theory, ladies and gentlemen of the jury, these three men are  
10:19:24 7 guilty of conspiracy to commit bank robbery.

10:19:36 8 I anticipate that once we get finished with the  
10:19:41 9 arguments that the Judge will hand you a verdict form when you go  
10:19:45 10 back there, and I want to explain to you -- this goes back to  
10:19:49 11 what we were talking about earlier. I want to explain to you how  
10:19:52 12 this verdict form works so in order to hopefully not create any  
10:19:56 13 confusion back there.

10:19:59 14 But the top of the verdict form, I took Jose Trevino's  
10:20:04 15 because his was on top, but you'll have all five of these  
10:20:07 16 particular defendants. The first line will say, we, the jury,  
10:20:10 17 either find the defendant guilty or not guilty. Your foreman  
10:20:15 18 will either write "guilty" or "not guilty" there. If it's not  
10:20:18 19 guilty, you stop. You put the piece of paper down and you sign  
10:20:22 20 it at the bottom. If it's guilty, the law requires for you to  
10:20:26 21 find those four theories that we talked about.

10:20:31 22 So if you find the defendant or each one of the  
10:20:33 23 defendants guilty, you'll go down to the next line, an I, and  
10:20:39 24 that will be the financial transaction from the specified  
10:20:42 25 unlawful activity in order to conceal. So I submit to you that

1 the government has proven this with all of the defendants because  
2 it's the conspiracy that you're finding on the verdict form.

3 The second is the conspiracy to commit the specified  
4 unlawful activity proceeds from a financial transaction in order  
5 to avoid the reporting requirements. So it's the second theory  
6 that you'll be determining on that one. The third theory that  
7 will be given to you that you must specifically find unanimously  
8 is that of the international movement -- specified unlawful  
9 activity, knowingly, international movement to conceal. And  
10 then, finally will be the international movement, specified  
11 unlawful activity knowingly done in order to avoid the reporting  
12 requirements.

13 This conspiracy and the proof in this case is this to  
14 money laundering? Yes. The conspiracy exists between these men  
15 and many others which you have heard about from the testimony  
16 today, not just these defendants sitting in front of you.

17 Ladies and gentlemen of the jury, if you want to  
18 believe one of four or five different stories that was given to  
19 you on cross-examination on Jose Trevino about where he got the  
20 money on Tempting Dash, remember, he told his accountant that he  
21 got a tip from his brother. He told his vet Shalyn Bliss that he  
22 sold a construction business. So theory of selling property,  
23 inheritance, or cash from his paycheck that he obviously must  
24 have put under his bed, you can still believe all of those, one  
25 of those, or none of those theories and convict these defendants,

10:22:57 1 because if he so much as joins into this conspiracy with the  
10:23:03 2 intent to further it -- if he so much as thinks about buying a  
10:23:10 3 farm in Lexington, Oklahoma to house his brother's horses and to  
10:23:16 4 take care of them, then Jose Trevino is guilty of conspiracy.

10:23:20 5 MR. FINN: Objection, your Honor. If he thinks about  
10:23:22 6 buying property, that's a crime? Thinking?

10:23:25 7 THE COURT: Okay. The objection is sustained. Counsel  
10:23:30 8 may rephrase.

10:23:31 9 MS. FERNALD: If he joins into this conspiracy  
10:23:35 10 willfully, with the intent to further this conspiracy and even  
10:23:41 11 thinks about it, even thinks about buying a car, he is guilty of  
10:23:45 12 this conspiracy under the law. There's been much more evidence  
10:23:50 13 that's been presented to you on that, but I submit to you that's  
10:23:53 14 all that the government must prove to you under the law.

10:23:59 15 Francisco Colorado-Cessa, if you want to believe that  
10:24:05 16 he is worth a hundred-million dollars but his business ADT Petro  
10:24:12 17 Servicios is funding all of these horses and disregard the  
10:24:17 18 testimony that came from his financials that, at best, his  
10:24:23 19 company breaks even, and there is no way that he can pay for his  
10:24:26 20 operating expenses and purchase \$10 million worth of horses --  
10:24:32 21 even if you wanted to believe all that, if he joins into this  
10:24:37 22 conspiracy with the intent to further it willfully and he  
10:24:41 23 purchases horses for this cartel, he under the law is guilty of  
10:24:47 24 this conspiracy.

10:24:50 25 And if you want to believe that Fernando Garcia is some

10:24:57 1 talented agent that knows about horses, that's fine, because if  
10:25:03 2 he joins into this conspiracy willfully and he so much as advises  
10:25:10 3 a member of this conspiracy on which horse to pick, he's guilty  
10:25:13 4 of conspiracy.

10:25:18 5 Eusevio Huitron, if you want to believe that he's a  
10:25:24 6 good trainer, despite the evidence that he drugs --

10:25:32 7 MR. ESPER: Objection, your Honor. She's arguing  
10:25:34 8 matters that are not in evidence, your Honor. Those were, as you  
10:25:36 9 heard, questions of the witness. There's been no evidence  
10:25:38 10 introduced to that effect.

10:25:41 11 THE COURT: The objection is overruled.

10:25:43 12 MS. FERNALD: You want to believe all that, then you  
10:25:47 13 can. You can listen to them talk about it. But if he joins into  
10:25:52 14 this conspiracy willfully and so much as gives a drink of water  
10:25:58 15 to one of these cartel horses in order to sustain them or the  
10:26:02 16 cartel, he is guilty under the conspiracy statute.

10:26:09 17 And if you want to believe that Jesus Huitron, sends  
10:26:17 18 his 29-year-old daughter to do his dirty work in Laredo to  
10:26:22 19 structure deposits, or anybody else for that matter, and that he  
10:26:26 20 turns around and he issues checks to the horsemen's account, in  
10:26:35 21 order to give money to other members of this conspiracy, then he  
10:26:41 22 is guilty of conspiracy to commit money laundering.

10:26:48 23 The conspiracy statute is a broad stroke with the  
10:26:53 24 federal law paintbrush. It covers almost anything once they  
10:27:00 25 joined in. That's the reason why these defendants are guilty of

10:27:08 1 conspiracy to commit all of these different kinds of money  
10:27:12 2 laundering. Thank you.

10:27:14 3 THE COURT: Members of the jury, I'll give you the  
10:27:16 4 morning break. Take about 15 minutes. Go use the facilities,  
10:27:24 5 stretch. Breathing exercises, come back to proceed.

10:28:01 6 (Jury not present.)

10:28:04 7 THE COURT: Fifteen-minute recess.

10:40:16 8 (Recess.)

10:41:04 9 (Jury present.)

10:42:33 10 THE COURT: Mr. Finn.

10:42:36 11 DEFENDANT TREVINO-MORALES' CLOSING STATEMENTS

10:42:36 12 MR. FINN: May it please the Court, members of the  
10:42:38 13 jury, government.

10:42:41 14 Their stories are consistent. Their stories are  
10:42:51 15 consistent. I think maybe that's because more than half of these  
10:43:00 16 criminals that the government has called are represented by the  
10:43:02 17 same lawyer, Frank Perez. Think about that. Frank Perez  
10:43:08 18 represented a whole bunch of these guys. He's a jockey riding  
10:43:14 19 four horses going in the same direction to get a reduced  
10:43:18 20 sentence.

10:43:19 21 You've heard about commingling of funds. You think  
10:43:22 22 maybe there's a chance there was some commingling of information?  
10:43:27 23 Here's how it would work. I'm Frank Perez. I've got all these  
10:43:32 24 clients lined up. I go into debriefings. I go into proffer  
10:43:35 25 sessions with the FBI. I learn as an attorney what the

10:43:41 1 government's interested in. I can share that information with  
10:43:46 2 all of my clients. So they're scripted. The same lawyer. Talk  
10:43:53 3 about a conflict of interest.

10:43:58 4 The government in this case -- I watched the Kentucky  
10:44:02 5 Derby over the weekend. I didn't want to. I've got four kids,  
10:44:06 6 coached them at soccer, running home, put a steak on, we're ready  
10:44:09 7 to sit down for supper and I was going to watch the Ranger game.  
10:44:14 8 So I had on the Rangers, I come back in, it's this dad-gum  
10:44:18 9 Kentucky Derby, and I said, I don't want to see horses, I don't  
10:44:20 10 want to hear about horses. We've been living and breathing  
10:44:23 11 horses for a month, right?

10:44:26 12 But the horse the government has chosen to ride in this  
10:44:30 13 is called, where there's smoke, there's fire. Where there's  
10:44:35 14 smoke, there's fire. How do we know that? You remember the  
10:44:39 15 testimony when Jose, my client, would come -- he's a U.S.  
10:44:44 16 citizen, father of four, all the witnesses say hard-working,  
10:44:48 17 honest, likable guy. Frugal, saving, American dream. When he  
10:44:53 18 comes into the United States, he's a U.S. citizen, he's got a  
10:44:59 19 passport. What happens? Did they just look at the passport and  
10:45:02 20 say, vamanos, welcome? (Moves head side to side.)

10:45:06 21 Handcuffed him 30, 45 minutes and interrogate him about  
10:45:14 22 who? His brothers, "40" and "42." Last time I checked, folks,  
10:45:22 23 "40" and "42" are not in this courtroom. They are not on trial.  
10:45:27 24 My client's on trial. But think about that. The government, way  
10:45:31 25 before they decided to pursue charges or issue an indictment is



10:45:36 1 holding my guy aside, handcuffing him and interrogating him about  
10:45:39 2 his brothers. They checked his pockets. Nothing there. Checked  
10:45:43 3 the phone. Nothing there.

10:45:47 4 And remember the timing of all of this. This  
10:45:51 5 indictment got handed down one month before the Mexican  
10:45:55 6 presidential elections and three months before the U.S.  
10:45:58 7 elections. Why presidential? Why is that important? Think back  
10:46:02 8 during that summer, what was going on in Washington. All hell  
10:46:07 9 was breaking loose about Fast and Furious and Mr. Zapata, Agent  
10:46:11 10 Zapata getting killed, murdered by guns that were supplied by the  
10:46:16 11 ATF. People were calling for Eric Holder's -- he's the guy in  
10:46:23 12 charge of Department of Justice.

10:46:24 13 Think about that. You can't get "42," you can't get  
10:46:30 14 "40." Here we are. And where there's smoke, there's fire. When  
10:46:41 15 all the smoke from the battlefield clears, what do we have? We  
10:46:47 16 have testimony by people that murder and torture other people,  
10:46:55 17 that kidnap other people. And I was a federal prosecutor for  
10:46:59 18 five years, okay, and I have the utmost respect for the team  
10:47:03 19 assembled. And I've gotten to know Mr. Gardner very well. He is  
10:47:07 20 an honest, ethical guy. He's the kind of federal prosecutor you  
10:47:10 21 would want if you were a victim of crime. And I mean that.

10:47:15 22 For him to call a Zeta hit man to the stand took a lot  
10:47:21 23 of thought because if you're a federal prosecutor and you're  
10:47:26 24 sponsoring a witness and you know that witness has murdered,  
10:47:30 25 butchered, tortured countless people, made \$50 million and still,

10:47:37 1 has squirreled away -- remember his testimony, two or three  
10:47:40 2 million he's still hiding? And somebody asked him, hey, by the  
10:47:45 3 way, you don't mind telling us where that money's squirreled  
10:47:49 4 away, would you? You have no need to know.

10:47:52 5 In fact, when Mr. Gardner asked him a question as to  
10:47:55 6 whether or not he had underestimated the number of murders that  
10:47:58 7 he'd committed, he sneered at Mr. Gardner and said, what,  
10:48:03 8 whatever. Would you convict anybody on the testimony of that  
10:48:08 9 guy? Would you convict on the testimony of these other  
10:48:13 10 confidential informants that are trying to get a deal? I'd  
10:48:16 11 submit to you the answer's no.

10:48:19 12 But what the government wants you to do, frankly, what  
10:48:22 13 they need you to do is to engage in what I call funky math. Zero  
10:48:28 14 plus zero plus zero plus zero, in my book, equals zero. You're  
10:48:38 15 not going to convict based on this guy, this guy, this guy, this  
10:48:42 16 guy, all represented by Perez, or this guy or this guy, but trust  
10:48:49 17 us, these are bad guys, they're bad guys. Let's talk about the  
10:48:53 18 Zetas.

10:48:54 19 Folks, nobody has said that any of these guys are  
10:48:59 20 Zetas, ever. The Zetas they want are in Mexico. And ask  
10:49:04 21 yourself this: Why do we have the war on drugs? Because good  
10:49:11 22 people get hurt, addicted, killed, kidnapped, raped, it's awful.  
10:49:18 23 I agree. There's a problem here in the U.S. If demand dries up,  
10:49:27 24 then you don't need a supply.

10:49:28 25 But there's also a problem in Mexico, isn't there?

10:49:31 1 Corruption. "40" and "42" are supposedly in Mexico. They're not  
10:49:37 2 hiding in the hills of Afghanistan. It's not like it's Osama bin  
10:49:41 3 Laden. Do you think that the Mexican government really wanted to  
10:49:43 4 find those guys, they could? But here we are. Can't get the  
10:49:50 5 brothers, let's get the clean brother.

10:49:53 6 And remember Tyler Graham, who hardly said anything  
10:49:59 7 about my client, he had an FBI phone for 14 months. You think  
10:50:04 8 maybe he could have had a little chitchat with Jose saying, hey,  
10:50:09 9 where's this money coming from? Is this clean money or is this  
10:50:13 10 dirty money? You think? Hey, Tyler, wear a wire, a body mic  
10:50:22 11 with the little camera that looks like a button, and go up to  
10:50:25 12 Jose at one of these races or one of these auctions and just kind  
10:50:29 13 of see if maybe he'll tell you where this money's coming from.

10:50:35 14 They didn't do it. Want to know why? Because they  
10:50:38 15 were afraid that Jose would say, what was the truth, I don't know  
10:50:42 16 what the heck you're talking about. Whoops. Then they have to  
10:50:46 17 explain that away at trial. Fourteen months with an FBI phone.  
10:50:53 18 Think maybe they could have gotten a wiretap on Jose's phone? He  
10:50:57 19 used the same phone for years.

10:50:59 20 Remember the agent saying getting rid of a phone is  
10:51:01 21 consistent with illegal activity? Jose had the same phone for  
10:51:06 22 years. Same phone that they analyzed at the border crossings.  
10:51:09 23 The same phone that they seized when 100 agents in at least two  
10:51:14 24 helicopters raided the ranch. They searched it from top to  
10:51:19 25 bottom, attic, basement, cars, outposts, they searched his house.

10:51:27 1 And all the king's horses and all the king's men came up with  
10:51:30 2 what?

10:51:35 3 I thought about having the agents or asking the agents  
10:51:38 4 through Mr. Gardner to bring in the 150 some-odd boxes of  
10:51:43 5 evidence that was seized at the ranch and at the house. And I  
10:51:47 6 was going to pile it up all up and say, folks, this is what a  
10:51:51 7 multi-year federal investigation has brought you.

10:51:59 8 Jose is either the smartest criminal on the planet or  
10:52:03 9 he's not guilty. The FBI was all over him and his family for  
10:52:14 10 years. Years. And here we are. Zero plus zero plus zero equals  
10:52:28 11 zero. The burden of proof in a criminal case is on the  
10:52:34 12 government and it's a high burden. That's why the government  
10:52:41 13 gets to sit close to you while we're sitting on the other side of  
10:52:45 14 the room. That's why the government gets to go first and the  
10:52:50 15 government gets the last word. Because it's proof beyond a  
10:52:55 16 reasonable doubt, not maybe, not possibly, not even probably.

10:53:00 17 And I know some of you on this jury have had prior jury  
10:53:04 18 service and you know that proof beyond a reasonable doubt is a  
10:53:08 19 high standard. I mean, it's moral certainty because you've got  
10:53:11 20 to live with your verdict. And you are a group of individuals.  
10:53:17 21 You are not a team. Deliberation doesn't mean capitulation.  
10:53:23 22 Deliberation doesn't mean compromise because, I submit to you,  
10:53:28 23 folks, you'll forget about this trial. But two, three, four  
10:53:31 24 years from now in a quiet moment, maybe you've taken your family  
10:53:36 25 to Big Bend, you're going to think back about Jose and you're

10:53:40 1 going to wonder, did I get it right? Did the government prove it  
10:53:45 2 beyond all reasonable doubt? You are not a team. You can send  
10:53:51 3 notes out. I encourage you to send notes out, questions if you  
10:53:55 4 have them.

10:53:57 5 But I'm going to end on this and Ms. Williams will talk  
10:54:00 6 to you for a little bit. Remember in opening statement, I asked  
10:54:06 7 you to look deep into your heart and soul and identify something  
10:54:09 8 that you consider to be the most important of your own affairs.  
10:54:13 9 Remember that?

10:54:15 10 Okay. I don't know you, you don't know me, but I'll  
10:54:18 11 tell you for me, it's the health and welfare of my kids. I'm  
10:54:25 12 married to a beautiful, intelligent, strong woman, great wife,  
10:54:29 13 great mom, and I obviously love and care for her, but she doesn't  
10:54:32 14 count on me to protect her the way that my kids do, because  
10:54:37 15 they're young and they count on me, they count on mom. And my  
10:54:52 16 15-year-old son, good student, excellent soccer player, he's got  
10:54:58 17 epilepsy. About nine months ago, he had a seizure out of the  
10:55:01 18 blue, scared me to death. I thought he was being electrocuted or  
10:55:04 19 something. And seizures don't run in my family or my wife's  
10:55:07 20 family, and I was scared to death. Ambulance, the whole nine  
10:55:11 21 yards.

10:55:12 22 So my wife and I go to some hotshot neurologist in  
10:55:16 23 Dallas and they do all these tests and stuff, and they said,  
10:55:19 24 well, since it doesn't run in your family, maybe it's just a  
10:55:23 25 one-off deal. He was playing video games at the time. Who's to

10:55:28 1 say those are in the trash now, but he was doing these flashy,  
10:55:30 2 you know, lights, and they said maybe it was these flashy lights  
10:55:34 3 that triggered this seizure. Maybe he doesn't have epilepsy.

10:55:37 4 Well, unfortunately, about six -- didn't put him on  
10:55:42 5 meds. About six months later, he's at school, he has a seizure  
10:55:45 6 and he's mortified. Now the whole world knows he's got some  
10:55:49 7 condition that other kids don't have. So what -- so that's the  
10:55:53 8 most important of my affairs.

10:55:55 9 So we consult with, supposedly, one of the best  
10:55:59 10 neurologists in town, and they did sleep deprivation tests, they  
10:56:04 11 did all kinds of stuff, and they finally said, Mr. Finn, Mrs.  
10:56:08 12 Finn, we think that it is epilepsy, and we are encouraging you to  
10:56:16 13 immediately put him on some high-octane, antiseizure medication.  
10:56:20 14 But we've got to warn you, this medication has some serious side  
10:56:23 15 effects, and they told us what those were. But they said we  
10:56:28 16 immediately want you to do this. It's in your son's best  
10:56:31 17 interest. Trust us.

10:56:33 18 That's where we are here in this case. The government  
10:56:39 19 is asking you to trust them based on the evidence in that most  
10:56:44 20 important of your own affairs. Did Melissa and I immediately put  
10:56:48 21 him on meds? (Moves head side to side.) Did we hesitate to act  
10:56:54 22 in the most important of our own affairs? (Moving head up and  
10:56:59 23 down.) Did we talk to our son about it? (Moving head up and  
10:57:01 24 down.) Did we talk to other families that had kids with epilepsy?  
10:57:04 25 (Moving head up and down.) Did we get more consults from more

10:57:07 1 specialists to make sure? That's where we are.

10:57:16 2 Would you hesitate to act, just hesitate, for a second,  
10:57:26 3 hesitate to act in the most important of your own affairs? If  
10:57:30 4 you would hesitate, that's a reasonable doubt. All the king's  
10:57:36 5 horses, all the king's men and here we are. Thank you.

10:57:59 6 DEFENDANT TREVINO-MORALES' CLOSING STATEMENTS

10:58:07 7 MS. WILLIAMS: Why do you think Ms. Fernald spent so  
10:58:13 8 much time in her opening talking about "40" and "42"? Talking  
10:58:19 9 about how if Jose had thought about doing something. Because she  
10:58:24 10 knows that they didn't prove their case. They wanted to. They  
10:58:31 11 worked pretty hard at it, but they didn't get there. They know  
10:58:37 12 that they didn't get there. And you know that they didn't get  
10:58:39 13 there. Fourteen months of phone calls, Tyler Graham, every  
10:58:47 14 e-mail Jose Trevino sent or received. Couldn't get a wiretap or  
10:58:54 15 didn't get a wiretap.

10:59:01 16 They don't have any evidence that Jose agreed to do  
10:59:08 17 anything with his brothers. All this evidence, boxes like that,  
10:59:18 18 that they took from Lexington that aren't in evidence, years of  
10:59:25 19 investigation, 60 witnesses, but they have to prove that Jose  
10:59:35 20 Trevino agreed to participate in the scheme to conceal drug  
10:59:48 21 money. They have to prove he agreed that he knowingly  
10:59:52 22 participated in this conspiracy, and they haven't done that.

11:00:00 23 We don't have to prove anything. We did our duty on  
11:00:16 24 day one when we walked into this courtroom and we sat down at  
11:00:20 25 that table. We didn't have to cross-examine witnesses. We

11:00:27 1 didn't have to talk. We don't have to argue. We don't have a  
11:00:33 2 burden. At all. Zero.

11:00:42 3 And so, for the government to stand up here and say,  
11:00:44 4 oh, Ms. Williams on cross-examination, she brought up a lot of  
11:00:48 5 different ideas and different theories, you know what, that's  
11:00:50 6 because the government has the burden of proof, and when they  
11:00:55 7 don't prove their case, it's my job to try to point that out to  
11:00:58 8 you. And one of the ways I try to point that out to you is by  
11:01:03 9 showing you things they didn't think about. Things they didn't  
11:01:08 10 consider.

11:01:15 11 We would have liked nothing more than to tell you the  
11:01:19 12 rest of the story, but that's not our job.

11:01:27 13 THE COURT: Counsel, we're audio-ing to the jury  
11:01:31 14 assembly room, and you need to stay at the lectern or use the  
11:01:40 15 mic. My apologies. Not my idea.

11:01:57 16 MS. WILLIAMS: When I feel passionately about  
11:02:00 17 something, I tend to be quieter, instead of loud. I'm going to  
11:02:05 18 try to be loud, but don't, for a second, think that I feel any  
11:02:09 19 less passionate about what I'm saying.

11:02:15 20 But what the government is trying to get you to believe  
11:02:20 21 is that because this man's last name is Trevino-Morales, that  
11:02:25 22 it's not okay for him to engage in business that other people  
11:02:30 23 engage in in the horse business? It's not okay for him to  
11:02:34 24 conduct deals on a handshake. It's not okay for him to sell a  
11:02:37 25 horse for more than somebody thinks it's worth, some random



1 person after the fact. It's not okay for him to take some mares,  
2 take care of those mares, bring the babies into the world, take  
3 care of the babies, so that he can give the babies back to the  
4 owner. It's not okay for him to do things like that because his  
5 last name is Trevino-Morales and his brothers are bad. His  
6 brothers are really bad, and that must make him bad, too. That's  
7 what they are trying to sell you.

8 I want to talk to you about this issue of investigative  
9 bias. During cross-examination, I think you heard us bring up a  
10 number of things that we feel like a proper investigation would  
11 show. When these agents go out and look at evidence, they're not  
12 supposed to have already made their mind up. When they try -- I  
13 mean, let's not kid ourselves. When Jose Trevino goes to buy  
14 Tempting Dash, that's a critical part of this case. Because if  
15 that \$25,000 is clean, then the \$435,000 that the horse wins is  
16 clean; and the money he uses to buy Mr. Piloto is clean; and the  
17 million dollars that Mr. Piloto wins is clean. Are you with me?

18 So this \$25,000 is really important to their case. And  
19 they made a decision before the indictment of this case that that  
20 \$25,000 was dirty. They decided that that was a fact, but they  
21 never proved it, and they never will because it's not true. Now,  
22 how do we know that? Well, we know for a couple of reasons. We  
23 know it because the Internal Revenue Service investigators don't  
24 even order Jose Trevino's tax records. That's reckless. That's  
25 just reckless. We know it because they don't have any evidence

1 before the indictment of how much money Jose Trevino makes.

2           How do we know that? We know that because Agent  
3 Fernald uses a Social Security statement that he finds at Jose  
4 Trevino's house when he goes to arrest Jose Trevino, after he's  
5 already been indicted, and he uses that and he spends time on the  
6 witness stand trying to convince you that the Trevino family  
7 needed every penny they make. That's what he said. They needed  
8 every penny they made to feed their family.

9           And so, why is it my job to spend my lunch hour going  
10 over the bank records that the government got, and showing you  
11 that by taking out a couple of hundred dollars out of the  
12 paycheck, not depositing the whole paycheck, that in a nine-month  
13 period of time, they could amass \$7,700 in cash? Why is that my  
14 job? It's not. It's not my job because I don't have a job in  
15 this case. That's their job, and they're supposed to do it  
16 before they make a decision.

17           I won't do the math, because I know you don't want to  
18 see my calculator again, but if they say \$7,700 in 2008, they say  
19 \$7,700 in 2009, do you know how much money I could save over the  
20 previous 18 years to make \$25,000? Not much. It isn't much.  
21 Briefly, if I'm the Zeta cartel and I want to buy a horse to  
22 launder some money, do you think I'm going to buy a \$25,000,  
23 broken-down, had surgery, blood-infected horse, and hope it wins  
24 a bunch of money? Or am I going to go to one of these auctions  
25 that you heard so much about and buy a \$750,000 horse and hope it

11:08:11 1 wins a bunch of money? Which one makes more sense?

11:08:17 2           So Jose, just like he's built, brick by brick, a lot of  
11:08:24 3 things over the years, dollar by dollar he saves this money, and  
11:08:28 4 he buys this horse and it wins a race. We just talked about  
11:08:33 5 that. And then, he hires a bookkeeper and a CPA and a  
11:08:46 6 veterinarian, and as his business grows, he advertises in  
11:08:53 7 magazines, real horses, real business, hard-working, honest. You  
11:09:10 8 know, if he needed money, at any point, he could have sold  
11:09:13 9 Tempting Dash, \$3 million. \$3 million.

11:09:28 10           How many times did you hear from people in the horse  
11:09:31 11 industry, there aren't any guarantees. It's all a gamble. A  
11:09:34 12 horse is worth what somebody's willing to pay for it. Nobody can  
11:09:39 13 tell you how much a horse is worth. It's however much somebody  
11:09:45 14 pays for it.

11:09:51 15           Blues Ferrari, I know you're going to hear a lot about  
11:09:53 16 that. Tyler Graham told you that horse was worth \$250,000. We  
11:09:56 17 know somebody bid \$300,000.

11:10:17 18           Hernando Guerra, he's friends with Ramiro Villarreal.  
11:10:21 19 Lots of people know Ramiro Villarreal. He's a fixture in the  
11:10:23 20 horse business. The fact that Jose Trevino buys that horse from  
11:10:28 21 Ramiro Villarreal. Hernando Guerra is not indicted. What about  
11:10:35 22 this Fort Worth police officers who comes to Jose Trevino's house  
11:10:41 23 in 2011, eleven officers, 7:00 in the morning, pull everybody out  
11:10:46 24 of the house, search high, low, did they find any evidence that  
11:10:51 25 he's involved in some sort of conspiracy? No. They don't.

11:10:54 1 What about this Oklahoma City Police officer who won't  
11:10:57 2 admit that he stops Jose Trevino in a pretext stop? Finds \$5,000  
11:11:04 3 and they don't like Jose's explanation. What does that prove?  
11:11:11 4 Well, it proves that Jose Trevino consents to searches, that he  
11:11:16 5 lets people look at his luggage, his passenger's luggage.  
11:11:22 6 They're in his car, they're in his house.

11:11:27 7 After this raid at Los Alamitos, what does Jose change?  
11:11:33 8 E-mail address? Phone? Not a thing. Not a thing. Tyler  
11:11:46 9 Graham, you heard about these witnesses. You heard me say to  
11:11:52 10 Agent Fernald, do you see what you're looking for? Do you see  
11:11:55 11 what you're looking for? And that's the investigative bias that  
11:12:00 12 was reckless disregard for what's right in front of you that I'm  
11:12:03 13 talking about in this case. Again, you're looking for evidence  
11:12:18 14 that Jose is just like his brothers.

11:12:25 15 What reason has the government given you for why this  
11:12:28 16 man lived here since he's 15, worked hard, raised a family,  
11:12:35 17 worked at a hard job all his life, saved money, didn't do  
11:12:43 18 anything extravagant? Why would he suddenly decide he wants to  
11:12:48 19 be a part of some Zeta legacy? Why would he decide that he  
11:12:52 20 wouldn't want his own legacy, his own personal hard work, bring  
11:12:56 21 your kids up the way they ought to be brought up? Why would he  
11:13:01 22 abandon that? Was somebody sick? Was somebody hurt? Was he in  
11:13:06 23 bankruptcy? Why would he abandon the life he had built for  
11:13:12 24 himself to become a part of this legacy of his brothers, this  
11:13:16 25 legacy of the Zeta cartel? Why would he want any part of that?

11:13:22 1 He wouldn't. He didn't.

11:13:28 2 It's the government's burden. It's their job to prove  
11:13:37 3 what they're saying beyond a reasonable doubt. They don't get to  
11:13:42 4 just stand up here and say, well, we found a phone with a Mexican  
11:13:45 5 phone number on it. That's not good enough. That's not good  
11:13:50 6 enough.

11:13:57 7 There's no evidence of any communication between Jose  
11:14:04 8 Trevino. There's no evidence that at any point, he looked to  
11:14:12 9 them for guidance, he asked them for help, that they told him  
11:14:16 10 what to do in the horse business, that he took any advice. Phone  
11:14:23 11 call, e-mail, text, BlackBerrys, PIN message, confidential  
11:14:28 12 informants, written messages, zero. Zero. And that's why when  
11:14:54 13 you get that verdict form, you write "not guilty" on it under  
11:15:00 14 Jose Trevino.

11:15:08 15 THE COURT: Mr. DeGeurin.

11:15:41 16 DEFENDANT COLORADO-CESSA'S CLOSING STATEMENTS

11:15:55 17 MR. DEGEURIN: First of all, I am not unmindful,  
11:16:08 18 believe me, of the sacrifices that you all have done in your life  
11:16:12 19 to be here for these four weeks. You know, you were taken away  
11:16:21 20 from your families, your regular life. You sat down, you paid  
11:16:26 21 attention. You listened to the evidence. I watched you. I was  
11:16:35 22 counting on it.

11:16:37 23 THE COURT: Mr. DeGeurin, you're going to either have  
11:16:39 24 to use the --

11:16:40 25 MR. DEGEURIN: Mic. Oh, I can use this mic.

11:16:42 1 THE COURT: Yes, sir.

11:16:43 2 MR. DEGEURIN: But I do have a little bit of -- does  
11:16:50 3 that work?

11:16:52 4 THE COURT: It's working.

11:16:56 5 MR. DEGEURIN: Okay. And because our system of justice  
11:17:16 6 is not perfect, but it's the best in the world. And what do we  
11:17:25 7 have that's better than any other system in the world, and that  
11:17:32 8 is the protection that an accused has to have a jury protect him.  
11:17:46 9 And that's been a design from the beginning of our time of the  
11:17:52 10 United States. We fought to keep it and we still have it. And  
11:17:58 11 the idea is and the concept is that no person shall ever be  
11:18:05 12 convicted unless a jury decides, beyond a reasonable doubt, that  
11:18:13 13 the accusations are true beyond a reasonable doubt.

11:18:21 14 You're not part of the prosecution. To the contrary,  
11:18:25 15 you're the protector of the accused. If, in the end of this  
11:18:36 16 trial, you say to yourself, the evidence was not sufficient to  
11:18:50 17 prove guilt of Francisco Colorado beyond a reasonable doubt, and  
11:19:01 18 that's your verdict, or you have a hesitation or a doubt and  
11:19:05 19 that's your verdict, the first person to congratulate you and  
11:19:14 20 thank you for your service would be Mr. Doug Gardner, because he  
11:19:18 21 knows that would be justice. Because justice is what the jury --  
11:19:26 22 when the jury does its job.

11:19:29 23 So I'm spending some of my precious time to let you  
11:19:32 24 know that I appreciate everything you're doing. And I want you  
11:19:35 25 to remember your role is not to try to put some case together,

11:19:42 1 not try to convince people of someone's guilt. Your job is just  
11:19:46 2 the opposite. It is to look at the evidence with a skeptical eye  
11:19:53 3 to see if it proves a fact beyond a reasonable doubt.

11:20:01 4 Now, you'll remember -- Mr. Colorado has a family and  
11:20:11 5 Jose Antonio, you've heard about, and you've see his wife, some  
11:20:17 6 of his brothers and his family. And he grew up in Tuxpan, small  
11:20:27 7 area in Veracruz, that he worked hard all of his life, grew up on  
11:20:30 8 a ranch. And he's been in the oil business, the oil --  
11:20:41 9 environmental remediation business for a number of years, at  
11:20:50 10 least his present company over 15 years, and he's been very  
11:20:55 11 successful.

11:20:58 12 You'll remember that the government proved up through  
11:21:03 13 Mr. -- I think his name is Barrera, or something like that, he  
11:21:07 14 was with UBS, and the government proved up that in 2010 and '11  
11:21:18 15 -- maybe it was 2012 -- his company could be sold between 70 and  
11:21:24 16 90 million net to Mr. Colorado. In other words, it was worth 70  
11:21:30 17 to \$90 million. That's just ADT. That's not counting the other  
11:21:34 18 three companies that are related.

11:21:39 19 So he's been very successful over the years, and  
11:21:43 20 there's a lot of hard work that goes into that and a lot of sweat  
11:21:50 21 and tears and a lot of people involved. I think somebody said  
11:21:56 22 over 2,000, 3,000 employees, mostly the city of Tuxpan, have  
11:22:06 23 worked or have family working for ADT, in the oil business.

11:22:11 24 So anyway, I want you to keep in mind, that's the  
11:22:15 25 person Mr. Colorado is. And then, we're going to talk about,

1 just a little bit of time, what was going on during this period  
2 of time that the government has alleged there was a conspiracy to  
3 launder money.

4           You'll remember Ramiro Villarreal, you've heard a lot  
5 about. He was a horse purchaser, he was a horse -- he liked  
6 horses himself and he had horses in Mexico and he bought horses.  
7 He was pretty good at doing that. And he bought horses between  
8 2008 and 2011. Somewhere along the way, he rubbed elbows with  
9 Miguel Trevino and Omar Trevino. And Ramiro spent \$3.5 million  
10 through different companies, if you'll recall, they went to buy  
11 horses and maintained horses and they managed horses. And he did  
12 that through Mauricio Paez, that's not charged because all he did  
13 was take money, sent the money to buy horses at the request of  
14 Ramiro Villarreal.

15           And Hernando Guerra is another person that's involved  
16 in this purchase of horses. And Hernando Guerra is an  
17 interesting fellow because he is an international judge of  
18 cattle. He was all over the world as a judge of cattle. And he  
19 also knows something about horses but primarily cattle. You  
20 remember he's the one that Mr. Colorado sent young Jose Antonio,  
21 who was at that time 13-year-old son, to come to the Houston  
22 Livestock show to learn the cattle business from Hernando Guerra,  
23 who's known internationally for his expertise in cattle, because  
24 Francisco Colorado, as is consistent with his life, wants his  
25 children to know horses, but more than that, cattle, take on and



11:25:11 1 carry forward his ranching business and, hopefully, even his oil  
11:25:19 2 remediation business.

11:25:21 3 But Mr. Guerra, if you'll recall, was asked by Mr.  
11:25:32 4 Gardner, did you meet "Cuarenta" or No. "40"? He said he met  
11:25:40 5 Miguel Trevino several times, talked to him, talked to him with  
11:25:47 6 Villarreal, and they talked about horses. Now, he had no idea,  
11:25:54 7 no one told him that this is a Zeta. He didn't know it until  
11:25:57 8 after the indictment came down here that -- shortly before the  
11:26:02 9 indictment here that there was -- that this Mr. Miguel was a real  
11:26:09 10 bad guy. He just thought he was a wealthy guy interested in  
11:26:13 11 horses.

11:26:14 12 And I'm going to -- I want you to keep that in mind.  
11:26:20 13 You know, you meet somebody that's worth 350, \$450 million and  
11:26:25 14 you don't say, I'm a Zeta. Miguel Trevino, you wouldn't -- by  
11:26:30 15 meeting him, you don't feel he's a bad guy. You're wondering how  
11:26:33 16 he made his money, possibly.

11:26:39 17 Oh, by the way, and Hernando Guerra says, I've known  
11:26:46 18 Villarreal for 20 years. We're close friends. Twenty years and  
11:26:54 19 I had no suspicions that he was doing something for Miguel  
11:27:00 20 Trevino or anything was wrong until the end, when I realized I  
11:27:05 21 had a lot of horses in my name. I started a company Fast And  
11:27:11 22 Furious to put horses in the name that there were more horses in  
11:27:14 23 my name than I was aware of.

11:27:21 24 Rene Amarillas was the either FBI or DEA, I forget  
11:27:29 25 which, but a federal agent that went to Mr. Villarreal and said,

11:27:38 1 we think that there's some bad stuff going on here and we'd like  
11:27:42 2 for you to cooperate with us and make some recordings. And so,  
11:27:48 3 they record a bunch of calls. Mr. Villarreal's trying to get --  
11:27:52 4 gather evidence against Miguel, No. "40," No. "42." It was  
11:27:59 5 interesting on when he was testifying that there was no  
11:28:04 6 information about Mr. Francisco Colorado in these secretly  
11:28:09 7 recorded calls, except there was one call that said "Pancho" and  
11:28:15 8 Carlitos were discussed in one of the calls, and he explained the  
11:28:21 9 agent, after all this time working with him, didn't know who Mr.  
11:28:25 10 Colorado was or who Mr. Carlitos was, and whether Carlitos was  
11:28:33 11 Carlos Nayan or whether he was Commander Carlitos, which is  
11:28:40 12 another guy.

11:28:41 13 And the "Pancho," he wasn't sure whether that was  
11:28:47 14 "Poncho" Cuellar or "Pancho" Colorado as nickname. And then, we  
11:28:54 15 had a very interesting person who comes into the picture. Mr.  
11:28:59 16 Villarreal, who's working for the government, was killed. There  
11:29:03 17 was a car wreck. Before that, Carlos Nayan gets -- the attention  
11:29:13 18 comes to him. Remember Carlos Nayan was a young kid that worked  
11:29:16 19 at a horse track that Mr. Francisco Colorado kind of took in  
11:29:24 20 because he had a troubled family upbringing, disowned maybe, but  
11:29:33 21 Mr. Colorado knew his grandfather and respected him.

11:29:41 22 And Carlos Nayan was a whiz at picking horses. You  
11:29:59 23 might recall, I had a witness on the stand that I think it was  
11:30:10 24 Lazy E Ranch, or something, and I asked him if he would recognize  
11:30:17 25 Loose Perry, which was a horse Mr. Colorado owns, and he said,

11:30:21 1 possibly the best horse ever in the world of horses. And the  
11:30:27 2 triple -- the three top horses in Mexico, three top horses in  
11:30:34 3 Mexico were owned by Mr. Colorado after Mr. Carlos Nayen started  
11:30:44 4 helping him pick horses.

11:30:48 5 So yeah. People knew who Mr. Francisco Colorado was  
11:30:52 6 because he had the best horses in Mexico. And part of that  
11:30:56 7 reason was because of this young kid who he took under his wing  
11:31:05 8 and who later, as you'll recall, is seen with Tyler Graham at  
11:31:12 9 horse races at auctions buying horses. But who is Carlos Nayen?  
11:31:21 10 You know, he's -- the wedding. He looks like a movie star and  
11:31:28 11 his wife is wonderful. She's sweet. And Mr. Francisco Colorado  
11:31:34 12 is asked to be a witness and he helps do this wedding. This is  
11:31:38 13 right in the midst of things.

11:31:44 14 But remember Alfonso Del Rayo-Mora. He was a guy that,  
11:31:51 15 according to Mr. Rayo, was kidnapped by his friend Carlos Nayen.  
11:32:00 16 Well, actually, he was kidnapped by Zetas. When he was released,  
11:32:05 17 Carlos Nayen said, I got you released. You owe me a favor.  
11:32:09 18 You're going to come to the United States, you're going to pay  
11:32:12 19 two-point-something-million dollars for horses. And he goes.  
11:32:19 20 He's all beat up. We saw pictures of him with his hands and  
11:32:23 21 stuff. And he goes with Carlos Nayen and Carlos Nayen's brother,  
11:32:26 22 and they go to some auction and he writes the check and there's  
11:32:32 23 -- someone took a picture of him writing the check for, I forget,  
11:32:37 24 three-million dollars for horses that weren't his. He paid for  
11:32:41 25 the horses, but they're not his horses.

11:32:46 1 They go into these different companies that Carlos  
11:32:49 2 Nayan had. I'll get to those in a minute. And he explains that  
11:32:55 3 his injuries were due to a golfing accident. Now, he's not  
11:33:01 4 charged and because he didn't -- even though he paid money to buy  
11:33:08 5 horses that were not his and that were -- Ms. Fernald would say  
11:33:20 6 they went to the bad guys. Even all that's true, he did not  
11:33:27 7 intend to join the conspiracy, and he did not knowingly and  
11:33:34 8 intentionally and willfully hope that the object of the  
11:33:39 9 conspiracy succeeded. So he's not guilty.

11:33:45 10 But the interesting thing to me is Nayan is on one day  
11:34:00 11 or one week taking him around, having him write checks, and the  
11:34:05 12 next week, Mr. Del Rayo is at a wedding of Nayan as a special  
11:34:17 13 guest. And because -- this is a picture of Carlos Nayan with his  
11:34:24 14 father-in-law. I don't have a pointer, but the tall guy is the  
11:34:29 15 father-in-law, and that father-in-law is a good friend of Del  
11:34:37 16 Rayo. And the father-in-law and his wife is the one that invited  
11:34:45 17 Del Rayo to come to our wedding and he did. This was while he  
11:34:49 18 still had his golfing injuries. He was at the wedding.

11:34:56 19 And he borrows -- I don't want to forget about it.  
11:35:08 20 After he pays \$2 million, or whatever it was, for horses that he  
11:35:15 21 wasn't going to own. He borrows money from Carlos Nayan, \$2  
11:35:22 22 million -- either 2 million pesos, \$2 million, I forget what it  
11:35:28 23 was. Now, we're still talking about Carlos Nayan, which is a  
11:35:30 24 very interesting person. This is the type of person that your  
11:35:35 25 parents would say, where is that sweet little Carlos? Why

11:35:39 1 doesn't he come over more often? Because he can sell himself and  
11:35:42 2 he could sell anybody anything about himself. But he's got more  
11:35:48 3 than one face apparently.

11:35:51 4           You know, he gets Francisco Colorado, who has taken him  
11:35:58 5 in, who has given him a blank check to go do my horse business,  
11:36:02 6 do it well, Carlos, and Carlos does. But Carlos also, if you'll  
11:36:11 7 refer to the testimony, represents other people in the horse  
11:36:14 8 business. He manages not only Francisco's horses, but he's  
11:36:18 9 managing other people's horses and possibly, according to the  
11:36:23 10 government, he's managing "40's" and "42's" horses.

11:36:28 11           All right. So Carlos Nayan gets Francisco, the person  
11:36:33 12 that has helped him become who he could have been, and gets him  
11:36:39 13 to write a check for \$2,240,000 and give it to the auction people  
11:36:47 14 on September 6, 2010 to Ruidoso auction house. Carlos says the  
11:36:59 15 money's needed. That same day, Piloto is winning the race. Now  
11:37:09 16 think about that. This is Francisco Colorado is writing a check  
11:37:15 17 for two-million something, buying a bunch of horses, 14 or  
11:37:19 18 something, I forget what they are.

11:37:22 19           Same day, there's a horse race and Piloto, we've heard  
11:37:25 20 so much about, wins the race and everybody -- I don't have --  
11:37:30 21 this picture here shows some of the people that were celebrating  
11:37:33 22 the win of Piloto. You saw a picture Ms. Fernald showed where  
11:37:39 23 there was 50 people around this, celebrating the win of Piloto.  
11:37:46 24 Francisco Colorado wasn't there. He was not part of that big  
11:37:51 25 group that all were there on that same day, 9-6-2010.

11:38:00 1 That's the signature line on the check. That picture  
11:38:05 2 was taken 9-6-2010 with all the celebration, and Mr. Colorado  
11:38:11 3 wasn't there. And I think the agent testified he didn't go to  
11:38:13 4 any of the -- he never knew him to go to those horse races that  
11:38:20 5 were in question.

11:38:22 6 But Carlos Nayan in 2010, going on 2011, something  
11:38:30 7 crazy's going on. This is when he's kidnapping his good friend  
11:38:36 8 Rayo. But what he's doing is he's started a company, Carmina,  
11:38:46 9 LLC, to put horses in. Next one is Desiree Princess Ranch, LLC.  
11:38:54 10 That was another company -- LLCs that he could put horses' names  
11:38:59 11 in. He put horses' names in Bonanza. He was expanding big time  
11:39:05 12 and Fast And Furious.

11:39:12 13 November 2011, he goes to Mr. Francisco Colorado, and  
11:39:21 14 he says, we need money now, quickly, we've got to have it. And  
11:39:31 15 Mr. Jaff, who Mr. Colorado's met -- Mr. Jaff explained, you've  
11:39:37 16 been to the Colorado place. Mr. Colorado was the person that  
11:39:44 17 bankers and people like that wanted to know and wanted to have  
11:39:47 18 contacts with because he was the premium person in the oil  
11:39:56 19 remediation environmental business, and that was what he does is  
11:40:01 20 quick loans, you get them back.

11:40:03 21 And this is Mr. Jaff. You remember him testifying. He  
11:40:08 22 had talked so highly of the family, the business where he went to  
11:40:14 23 the business, the ranch, how large the ranch was, the cattle  
11:40:19 24 ranch, cattle business, the horses that Mr. Colorado was taking  
11:40:22 25 care of. And in November 2011, he says something changed. Mr.

11:40:33 1 Colorado called him, he went to see him. He was disheveled in  
11:40:41 2 appearance. He seemed anxious, nervous and he needed money, even  
11:40:49 3 though he's got a company that's worth \$70 to \$90 million he  
11:40:55 4 could sell at a drop of a hat. Cash-poor but he had to have the  
11:41:02 5 money.

11:41:02 6 So he says, another thing I saw, in addition to being  
11:41:08 7 nervous and disheveled and I needed the money, is, all of a  
11:41:12 8 sudden, he had heavy security, at least five men securing him.  
11:41:19 9 What was going on? What was going on? What was Nayan doing?  
11:41:25 10 Had Nayan gotten too close to the Zetas? Almost after the loan  
11:41:35 11 was made, Jose Antonio and his wife go to Houston. They leave  
11:41:46 12 Mexico. Francisco Colorado follows him soon thereafter. They  
11:41:54 13 leave Mexico.

11:42:04 14 Now, did money -- did a lot of money go out of ADT  
11:42:08 15 accounts? Those were good business accounts, yes. Did a lot of  
11:42:16 16 money go to the auction houses to buy horses? Yes. Did some of  
11:42:21 17 those horses not end up in Mr. Colorado's name? Yes.

11:42:32 18 But as Ms. Fernald and prosecutor pointed out at the  
11:42:35 19 beginning of this trial, they had an outline. They said what you  
11:42:40 20 have to do, what you have to find is that several-step process,  
11:42:45 21 and one of them is the wires that were sent or the check that was  
11:42:50 22 written by Mr. Francisco Colorado, that check, those funds had to  
11:42:59 23 be proceeds of the specified unlawful activity. In this case,  
11:43:05 24 sale of drugs, the bribery of a horse race, the gates, or  
11:43:12 25 something, or extortion. Those funds had to be a specified

11:43:19 1 unlawful activity funds. This is a very technical offense. Very  
11:43:26 2 technical violation.

11:43:29 3 If the proceeds are not proved beyond a reasonable  
11:43:32 4 doubt to be proceeds of drugs, or something like that, then they  
11:43:38 5 tell you there is no violation. That's the end of it. Now,  
11:43:42 6 there is no evidence, although there was insinuation, that good  
11:43:49 7 money was sent by Mr. Colorado and then, he was -- it was  
11:43:58 8 backfilled or paid to him in cash in Mexico. That was  
11:44:03 9 insinuation, right? There was no evidence of it. And they had  
11:44:11 10 -- we have this on here.

11:44:14 11 The jury instructions are real clear. With respect to  
11:44:19 12 the second element that you're going to have to -- talking about,  
11:44:25 13 the property was the proceeds. The property now we're talking  
11:44:27 14 about, the money, the checks, or the wires, have to be proceeds  
11:44:31 15 of illegal activity before there's a violation. That the  
11:44:37 16 monetary instrument or funds transported, in other words, the  
11:44:41 17 wire or transferred from the United States to Mexico, that's the  
11:44:46 18 wires that Mr. Colorado did, had to be the proceeds of drugs.

11:44:54 19 MS. FERNALD: Your Honor, I'm going to object. This is  
11:44:55 20 a misleading argument because it's the conspiracy, not Mr.  
11:45:00 21 Colorado-Cessa's check, that must contain the specified unlawful  
11:45:03 22 activities. The checks --

11:45:07 23 MR. DEGEURIN: That's an element of this subsequent  
11:45:09 24 offense, your Honor.

11:45:10 25 THE COURT: What? Counsel is right. The charge is



11:45:17 1 conspiracy.

11:45:18 2 MR. DEGEURIN: Yes. I understand that.

11:45:20 3 And the explanation in the conspiracy is to launder  
11:45:24 4 money, right? And in this case, as we've been talking about,  
11:45:31 5 they have to prove that Mr. Colorado intended to join a  
11:45:35 6 conspiracy willfully to launder money. In other words, he has --  
11:45:45 7 stay with me on this. Well, you'll have the instructions. They  
11:45:50 8 have to prove, beyond a reasonable doubt, through testimony that  
11:45:53 9 Mr. Colorado intended to make sure that the object of that  
11:45:58 10 conspiracy -- had to want it to succeed, to do something to make  
11:46:05 11 it -- it's willfully, knowingly and intentionally joined the  
11:46:09 12 conspiracy with the intent that money laundering succeed.

11:46:14 13 Now, what did the government do to try to show that Mr.  
11:46:30 14 Colorado tried to convince -- tried to put up evidence that Mr.  
11:46:34 15 Colorado was somehow paid money by the bank? And that is what  
11:46:48 16 they call -- and you've heard about them, the criminals, the  
11:46:51 17 blood-dripping murderers and recall four of them. Mr. Cuellar.  
11:47:00 18 He's the one that was at a horse race in Mexico and was asked,  
11:47:08 19 was Mr. Colorado at the horse race and was Mr. Miguel Trevino at  
11:47:11 20 the horse race? Yes. Would you point him out in the courtroom  
11:47:17 21 over at the table? And he couldn't -- he could not point out Mr.  
11:47:27 22 Colorado because he didn't know who he was.

11:47:33 23 Mr. Hector Moreno. This is an interesting character  
11:47:38 24 because remember Hector Moreno, we find out later, we had to call  
11:47:42 25 him back, was charged with conspiracy -- murder and kidnapping

1 and of killing Villarreal or having responsibility, who was the  
2 government informant in the government's case. And yet, he walks  
3 in with -- he's not charged here and he admitted that he was paid  
4 money for his testimony. He had to have something to testify  
5 about to be paid money for. And he was given an immigration  
6 status so that he's not going back to Mexico where he's charged  
7 with murder.

8 Well, this fellow, Hector Moreno, I want you to think  
9 about. Would you -- who was charged with murder, the Zeta, he  
10 did -- most of his life was drugs, and you have to believe him,  
11 whatever he said, in order to say Mr. Colorado knew that any of  
12 the money that -- that any of the money he sent was going to be  
13 backfilled or paid back to him. He didn't know the details.  
14 Moreno knows that the information he gives has to be something  
15 that's relevant. He's another one of these guys that has the  
16 same lawyer. And so, he says, I heard there were payments made  
17 to Mr. Colorado, but he didn't know any of the details. That's  
18 as far as he could go.

19 "Mamito," the last guy, ladies and gentlemen, I had the  
20 responsibility of cross-examining that killer, a guy that eyes  
21 are dark, but they turned gray as you talked to him. You'll  
22 recall, he's the one that I said, did you kill 20 or 30 people?  
23 He wasn't sure which one, it was 20 or 25 or 30 that he  
24 personally did, not because he was involved with but he  
25 personally killed. He said yes. And I asked him, did you

1 torture them before you killed them? And he said some.

2 Now, and I also asked him, he said he made \$50 million  
3 net himself. He's got about 3 to \$5 million left that's hidden  
4 out of Mexico. And I asked him, would you mind telling me where  
5 it was? And he said, I see no need to. The lawyer asked him,  
6 where is that money? This drug money that you put away, that  
7 you're trying to get a benefit by testifying in this court.

8 Ladies and gentlemen, you cannot -- the Judge instructs  
9 you on people like that, you've got to weigh what they say with  
10 great caution and care. Boy, that's a understatement. But can  
11 you believe that person beyond a reasonable doubt? Of course  
12 not. You have the right to say, let's take the Cuellar and the  
13 Hector Moreno and the "Mamito" and set them aside. Let's see if  
14 other evidence is sufficient, and that's exactly what I think you  
15 should do and suggest you do.

16 Carlos Hinojosa was the corrupt prosecutor in Mexico.  
17 Remember he's the one that claimed to be a prosecutor and he  
18 turned corrupt and start taking bribes, and then, he started --  
19 then he said, I was the bookkeeper for the Zeta in Nuevo Laredo,  
20 Miguel Aleman, and I just blew it up where it is just to show you  
21 the distance. He was in Miguel Aleman, and Francisco Colorado's  
22 ranch and his business -- the hometown of his business is down in  
23 Tuxpan, eight-hour drive away. So they're way across from each  
24 other.

25 But anyway, this guy, Jose Carlos Hinojosa, when I

11:52:35 1 started cross-examining him, he said, well, he gave money -- I  
11:52:41 2 didn't see it happen, but money was supposed to be given to Mr.  
11:52:44 3 Colorado and I know it did. Mr. Colorado borrowed \$6 million way  
11:52:51 4 back in -- he couldn't remember the dates -- 2003, 2004 to buy  
11:52:55 5 equipment. Remember that? And for his company. And it was  
11:53:00 6 loaned to him by a Zeta. Remember that testimony?

11:53:03 7 And the Judge told you -- stopped everything and he  
11:53:07 8 said, this is not what he's charged with. This is information  
11:53:13 9 beyond -- past the indictment that starts in 2008. And you are  
11:53:19 10 only -- you're not to consider this money that he claims was  
11:53:24 11 given to Mr. Colorado in 2003, 4, whatever it was, because it's  
11:53:32 12 outside the indictment and you're not supposed to let that  
11:53:35 13 prejudice you. Do not use that to determine guilt or innocence.

11:53:39 14 You can only use it for a limited purpose, and that is  
11:53:43 15 if you find any guilt, beyond a reasonable doubt, Mr. Colorado  
11:53:49 16 committed every act in -- charged in the indictment, then you can  
11:53:54 17 use this information if you believe, beyond a reasonable doubt,  
11:53:57 18 that he -- you could use that information to determine if he'd  
11:54:02 19 had the type of mental state to commit the act alleged in the  
11:54:06 20 indictment but only for that purpose.

11:54:09 21 But what's more important -- or, first of all, you've  
11:54:13 22 got to really be careful about someone like that's testimony when  
11:54:20 23 your job is to protect the citizen accused. Person accused. Mr.  
11:54:25 24 Hinojosa -- when I was cross-examining him and asked him, how can  
11:54:33 25 we believe this? There is no evidence of it. We have to take

11:54:37 1 your word for it. Do you agree with that? He goes no, no. No,  
11:54:41 2 no, Mr. DeGeurin. I kept exact books. I wrote everything down  
11:54:48 3 in the books. Every payment that Mr. Colorado, every -- if there  
11:54:55 4 was any -- and the loan, the \$6 million loan and I kept the books  
11:54:59 5 until Mr. Miguel Trevino said, take him off the books, he paid  
11:55:07 6 his debts, and that was in 2007 or 2008. Take him off the books.

11:55:13 7 So even if you believe he borrowed \$6 million, way back  
11:55:19 8 before this indictment, to get some equipment for a job, even if  
11:55:23 9 you believe that, then you've got to believe, also, that he was  
11:55:27 10 off the books by the time any allegations of this indictment had  
11:55:33 11 come so that ADT is totally away from Mr. Hinojosa's radar.

11:55:44 12 But now, think about this. Hinojosa told you that the  
11:55:48 13 way -- what he says is true and you can prove it is that  
11:55:54 14 everything was on my computer and on a thumb drive, and when I  
11:56:00 15 was arrested, I gave the thumb drive to the FBI and the FBI had  
11:56:06 16 it. He must have said that four or five times. If you don't  
11:56:10 17 believe me, look at my thumb drive and have all those document --  
11:56:16 18 all those things I'm telling you about will be on the computer.

11:56:25 19 Sometimes what the government does not bring you is  
11:56:28 20 more important than what they do. They got their thumb drive.  
11:56:34 21 They've got their computer. They've got a guy up there on the  
11:56:36 22 stand that's a corrupt, 20-year Zeta, whatever he was. He says  
11:56:43 23 proof of what I'm saying is in the FBI hands. And what does the  
11:56:46 24 FBI do and what does the prosecution do? They do not bring you  
11:56:50 25 that.

11:56:50 1 THE COURT: Counsel, you have two minutes.

11:56:53 2 MR. DEGEURIN: Real quick. I want you to think about  
11:57:05 3 this. The moneys that Mr. Colorado sent to the United States to  
11:57:11 4 purchase things with, he was -- he had pesos that he converted to  
11:57:18 5 dollars to wire to the United States, right? It's not like the  
11:57:25 6 theory is, dollars come to Mexico and they're dirty dollars and  
11:57:31 7 drug dealing. They take the dollars and they get someone to turn  
11:57:34 8 that into pesos so they can use it, right? Washed money. Well,  
11:57:40 9 every bit that he wrote was in dollars, not pesos.

11:57:46 10 I'm running out of time and I started off by telling  
11:57:51 11 you that I appreciate your time. And I've been trying to honor  
11:57:55 12 your time and stay within the guidelines of the Court. He's been  
11:58:01 13 very good about that.

11:58:02 14 I'm going to leave you with this. I will not be able  
11:58:07 15 to talk to you about anything that the prosecutor talks to you  
11:58:11 16 about when I get through. So it's going to be your job to resist  
11:58:21 17 and to ask those questions that I would ask, or respond to what  
11:58:25 18 you think I would respond, because I'm not allowed to get back  
11:58:27 19 up. Mr. Colorado did not intend to join a conspiracy with a  
11:58:37 20 bunch of Zetas. He did not knowingly, intentionally join a  
11:58:41 21 conspiracy with the intent and willfully to help the Zetas or to  
11:58:51 22 help conceal money. He did not do that. That's the bottom line.

11:58:59 23 So, oh, by the way, they have all of the records and we  
11:59:05 24 gave them to Pennington, the IRS agent, and they could not find  
11:59:11 25 any evidence of any cash being put into ADT accounts or the other

11:59:17 1 accounts. So don't let that hold you up. That's it.

11:59:27 2 I'm not good at budgeting my time. I thank you very  
11:59:31 3 much for your attention. If I forgot something, left out  
11:59:34 4 something, you're going to have to argue it for me. Thank you  
11:59:36 5 very much.

11:59:40 6 THE COURT: Members of the jury, I'll let you have your  
11:59:42 7 lunch break. Remember, don't talk to anybody about this case,  
11:59:45 8 even to yourselves at lunch. And be ready to come back at 1:20.

12:00:30 9 (Jury not present.)

12:00:33 10 THE COURT: We're in recess till 1:20.

13:14:15 11 (Lunch recess.)

13:19:16 12 (Jury present.)

13:20:50 13 THE COURT: Members of the jury, during the noonday  
13:20:52 14 break, while you were not eating, did anyone attempt to talk to  
13:20:57 15 you about this case?

13:20:58 16 JURORS: No.

13:20:58 17 THE COURT: Did you talk to anyone about the case?

13:21:01 18 JURORS: No.

13:21:01 19 THE COURT: And did you learn anything at all about the  
13:21:04 20 case, outside the presence of each other in this courtroom?

13:21:06 21 JURORS: No.

13:21:07 22 THE COURT: All right. Show negative responses to all  
13:21:09 23 questions by all jurors.

13:21:11 24 Mr. Womack.

13:21:11 25

1 DEFENDANT SOLIS-GARCIA'S CLOSING STATEMENTS

2 MR. WOMACK: Your Honor, counsel, government.

3 Ladies and gentlemen, first, a couple of quick comments  
4 from something that Ms. Fernald said during her closing this  
5 morning. She told you that the most important things you would  
6 hear in this court, you heard from his Honor, Judge Sparks. You  
7 know that's not true. What you heard from Judge Sparks was the  
8 law to apply in the case. It is exactly correct. It has been  
9 developed over the 237-year history of our country. It is the  
10 collective knowledge of every court today, and it goes back, as  
11 his Honor says, actually, back to Great Britain. So it's 400  
12 years worth here. But that is only the law to apply, and you  
13 cannot challenge it and you won't.

14 The most important words you have heard in this court  
15 were the words testified to by witnesses and the words and  
16 figures contained in documents that are exhibits because that is  
17 the body of work that is the evidence that you will look at in  
18 reaching a decision in the case. And you didn't promise us that  
19 you would do that. And you didn't promise that you'd follow the  
20 judge's instructions. You swore before God that you would do  
21 that. So we expect that of you and we know that you will.

22 Ms. Fernald also showed you a slide, and we've already  
23 established beyond a doubt that I'm a caveman. I will not be  
24 having a light show. I won't build graphs as we go, but they  
25 have that capability and it's pretty neat to watch. And remember



1 Ms. Fernald had a slide that started with the words "money  
2 laundering," and then, she built the slide as she went and she  
3 said, here are entities that did things. Here are people that  
4 did things. I think she named some horses, and the only mention  
5 she made at all on the slide of Fernando Garcia was off to the  
6 bottom right corner where she talked about him making these  
7 deposits in 2008.

8 Now, that implied to you possibly and, if so,  
9 absolutely wrongly that you should consider this opening of his  
10 bank account in 2008 as part of a conspiracy. His Honor and your  
11 instructions that you have read, and will have to look at again  
12 and you have heard read to you, told you that that transaction  
13 was allowable for a very limited purpose.

14 You cannot as a matter of law consider that as part of  
15 a conspiracy because, as you know from Special Agent Lawson and  
16 all of the other witnesses in the case, Fernando Garcia did not  
17 appear -- was not associated with any of the people in this case  
18 prior to around March of 2010. That was exactly a year and a  
19 half after he opened his bank account.

20 Structuring is not money laundering, but it could be a  
21 part of money laundering. And, of course, someone charged with  
22 structuring by itself or money laundering -- the five men who sit  
23 here are charged with an evil agreement to commit money  
24 laundering. And as the government's pointed out, and his Honor  
25 has told you, it's not even necessary they actually commit money

13:25:02 1 laundering if they agreed to do it and they take one step towards  
13:25:07 2 the completion of that crime.

13:25:08 3 MS. FERNALD: Your Honor, I'm going to object because  
13:25:09 4 it does not take one step.

13:25:13 5 MR. WOMACK: Your Honor, it requires an act in the  
13:25:15 6 furtherance of the object of the conspiracy.

13:25:16 7 MS. FERNALD: It does not require an act.

13:25:18 8 THE COURT: No, no, no. Now, if I need a little  
13:25:21 9 help -- she's correct and I have instructed the jury on it.

13:25:24 10 MR. WOMACK: Yes, sir.

13:25:25 11 But the case before you is about a conspiracy to commit  
13:25:30 12 a crime. And very briefly, let's look at opening that account  
13:25:37 13 for what consideration it may be worth to you. In September of  
13:25:41 14 2008, that would have been five years ago. You know, Fernando  
13:25:45 15 Garcia is 29. So he was around 24. You know from Garcia's  
13:25:51 16 Exhibit 1, his college transcripts, he had left school around  
13:25:57 17 2007 and was working in his field and interrupted his education  
13:26:02 18 to actually do some practical work in horse racing.

13:26:07 19 To be guilty for that to even have been structuring, he  
13:26:14 20 would have had to have known at that point, that day that if he  
13:26:20 21 makes deposits more than \$10,000, a bank has a requirement to  
13:26:25 22 report that to someone. And then, he intentionally made smaller  
13:26:32 23 deposits to avoid that reporting. You are all invited to use  
13:26:40 24 your common sense in the knowledge of the ways of the world and  
13:26:43 25 your prior experience.

13:26:44 1 How many 24-year-old men or women would have even known  
13:26:48 2 the first time they open a bank account that if I make big  
13:26:52 3 deposits, there's a reporting requirement for the bank? If  
13:26:56 4 you've ever been fortunate enough to make a big cash deposit into  
13:27:00 5 your bank, you know what they do? Do you remember that? They  
13:27:04 6 say, what is your Social Security number and I need your driver's  
13:27:08 7 license. They do not ever tell you, oh, I'm making a report to  
13:27:13 8 the Internal Revenue Service. Have a nice day.

13:27:16 9 They merely say, what's your Social Security number?  
13:27:19 10 At least the first time you do one. And can I see your driver's  
13:27:23 11 license? You're not put on notice of any recording. And it's no  
13:27:29 12 more than if you go through -- if you go to the H.E.B. and write  
13:27:32 13 a check for groceries, or you buy batteries at Best Buy, if you  
13:27:37 14 try to write a check or hand over a credit card, they always say,  
13:27:41 15 can I see your driver's license?

13:27:43 16 Many of you probably remember that your checks used to  
13:27:49 17 have your Social Security number and your date of birth on it  
13:27:53 18 because companies required that information. In the last decade  
13:27:58 19 and a half or so, with the advent of identity theft and all this,  
13:28:02 20 we've quit doing that. Now you can't get checks with a Social  
13:28:04 21 Security number or date of birth, but you used to have it on all  
13:28:07 22 of it. Things have changed.

13:28:09 23 For anyone to be charged with structuring, structuring  
13:28:17 24 means making -- it means you're making a deposit knowing that the  
13:28:21 25 bank had a responsibility to report it to someone, and you

13:28:24 1 intentionally try to avoid it. Compare that with the testimony  
13:28:28 2 of Mauricio Paez, the casa de cambio? The government asked him,  
13:28:37 3 isn't it true that you can't bring more than \$10,000 into the  
13:28:44 4 United States? And Paez, hearing the government stomp their  
13:28:47 5 foot, said, oh, that's right.

13:28:49 6 Remember I got up and cross-examined him and pointed  
13:28:51 7 out that that was false. You can bring untold money. You can  
13:28:56 8 bring a billion dollars cash into America. All you have to do is  
13:29:00 9 tell the Customs official, I've got a billion dollars worth of  
13:29:04 10 cash in my briefcase. It's perfectly legal to do that. But you  
13:29:09 11 have to tell the government if they ask you, I am carrying a  
13:29:15 12 large amount of cash, in or out of the country.

13:29:16 13 We talked about jewellers, when they travel to Mexico  
13:29:19 14 to buy gold or jewels from estates, or whoever, they don't take  
13:29:22 15 checks. If you write a check, you'll never get the property.  
13:29:26 16 You give them a check, they'll say, well, I'll send you the  
13:29:29 17 jewelry when this thing clears. Or you say, well, I'm going to  
13:29:34 18 leave -- I'm going to leave you a check and you keep property.  
13:29:38 19 Commerce doesn't work that way. Certain things you buy, you pay  
13:29:42 20 cash for to get a better deal. And used to, again, you pay cash  
13:29:47 21 for everything. But since that has nothing to do with the  
13:29:52 22 conspiracy, which is what the charges are, I want to get away  
13:29:55 23 from that.

13:29:55 24 Let talk about what really matters. When the  
13:29:58 25 government conducts a large investigation like this, it's very

13:30:03 1 much like being a trainmaster or the load master in a train.  
13:30:12 2 You're looking at all the things available to you. You've done  
13:30:15 3 some investigative work and you develop a theory, and that theory  
13:30:20 4 is a destination that you expect to go.

13:30:23 5 I expect to go down the track to a certain point to a  
13:30:26 6 courtroom in Austin, Texas. And you start out loading train cars  
13:30:31 7 and putting them on the train. And once you get loaded and you  
13:30:37 8 start down the track, you have a very limited/no opportunity to  
13:30:43 9 change course. You're locked into a rail heading north, south,  
13:30:48 10 east or west, and that's basically it. And there's some points  
13:30:52 11 you might divert and go a little bit different direction but  
13:30:55 12 you're pretty much committed on that train.

13:30:58 13 Well, the government does that in large criminal  
13:31:00 14 investigations. They start out with a couple of Zetas and they  
13:31:04 15 say, "40," "42," they must be bad. They certainly appear to be.  
13:31:10 16 And they cast this big net. Say, okay, let's bring in anybody we  
13:31:14 17 could think of that has any connection at all, and let's try to  
13:31:16 18 find somebody that's in America, since we don't expect the Zetas  
13:31:20 19 to come up here to participate. So let's charge people.

13:31:24 20 And many of them, we know two of them at least from  
13:31:31 21 Mexico, others, you know, come in, they plead guilty or they do  
13:31:34 22 whatever they want to do. But ultimately you have five men  
13:31:36 23 before you who said, we did not do it. We demand our day in  
13:31:41 24 court. So a jury can look at the evidence for four weeks and do  
13:31:47 25 the right thing. And that's why we're here.

13:31:51 1 None of these men chose to do a plea agreement or do  
13:31:54 2 anything like Farias and get probation. No one offered to do  
13:31:59 3 anything like that. They're here to be cleared. As Mike  
13:32:03 4 DeGeurin said, you're protecting the people sitting at the  
13:32:06 5 defense table because you're a jury.

13:32:12 6 When the government tries to prove a criminal case,  
13:32:15 7 like this, they very often -- excuse me, very often rely on three  
13:32:20 8 different kinds of witnesses and they're all lawful to do that.  
13:32:25 9 One group are criminals that have entered into a plea agreement  
13:32:30 10 or have some kind of immunity promised to them. And as you know  
13:32:39 11 from the Judge's instructions, you have to take their testimony  
13:32:42 12 with great caution. It doesn't mean you can't believe them, but  
13:32:46 13 you have to take it with great caution because they have a reason  
13:32:50 14 to help the government.

13:32:53 15 And let's face it. If I would go out and sell drugs or  
13:32:58 16 traffic in drugs, if I would kill men, women and children, I  
13:33:03 17 would torture some of them, if I get a chance to lessen my  
13:33:09 18 sentence and my own personal freedom, would I hesitate to lie?  
13:33:14 19 Do you think I would hesitate, for a moment, to lie if it would  
13:33:18 20 help me in my sentence?

13:33:22 21 But the interesting thing -- the only person I hear  
13:33:25 22 about in this trial, which is Fernando Garcia, is it doesn't  
13:33:28 23 matter if they lie. We won't like it. We'll find it repugnant  
13:33:34 24 that these people are the way they are, but it doesn't affect  
13:33:37 25 Fernando Garcia because not one of them, not one of the

1 government witnesses, these criminals, said Fernando Garcia was  
2 involved in anything illegal.

3 Y'all probably took notes. You have recollections  
4 probably better than mine. You know that Mario Cuellar said that  
5 as he thought it was, Los Zetas will use big businessmen to try  
6 to do stuff because nobody would notice that they had money.  
7 Well, Fernando Garcia is not a big businessman, and he said that  
8 we'd do anything we could to keep people from knowing. This is  
9 pretty obvious, right? We'd do anything to keep people from  
10 knowing that we're doing anything wrong. I wouldn't tell my  
11 neighbors. I won't tell anybody. Well, of course not. So you  
12 wouldn't tell Fernando Garcia that, oh, by the way, while you're  
13 training my horses, while you're buying my horses, I'm laundering  
14 money for the Zetas. You'd never say that.

15 You heard testimony from some of them that Ramiro  
16 Villarreal, who nobody would have ever suspected was involved in  
17 something like this, supposedly, according to the government  
18 witnesses, the Zetas were so concerned that he knew about them,  
19 even though he was not a snitch. He had no deal with the  
20 government. But just because he knew so much, they had him  
21 killed.

22 Ms. Fernald had a graph -- I think it was the very  
23 first one -- showing I won't call them "40" and "42" because I  
24 mess the names up so much if I try to say all three of them.  
25 Miguel Trevino-Morales, Omar Trevino. Just "40" and "42," that's

13:35:17 1 simpler for me. So the caveman name is "40" and "42." And she  
13:35:20 2 showed the pictures of "40" and "42," cold-looking, mean-looking  
13:35:25 3 guys. Nothing like their brother. But she showed that picture  
13:35:29 4 and she talked about how they had egos. That has to be correct.  
13:35:35 5 And they want to have a legacy and all these other things.

13:35:39 6 And they're so protective of that that they would kill,  
13:35:47 7 supposedly, Ramiro Villarreal just because he knew that they were  
13:35:49 8 investing in horses on their own. So would they make that  
13:35:54 9 mistake with another guy if Nayen started doing stuff, are they  
13:35:58 10 going to tell about it? You know they're not going to tell  
13:36:01 11 Fernando Garcia because they never even met him. They don't even  
13:36:03 12 know his name. We'll talk about that in just a moment.

13:36:07 13 So Fernando Garcia would never have been brought in on  
13:36:11 14 this secret that there was a conspiracy to launder money for the  
13:36:14 15 Zetas. Cuellar never mentioned Fernando Garcia's name. He  
13:36:20 16 talked about arranging for payments for trainers, fees, look at  
13:36:25 17 your notes. He never said the name Fernando Garcia. He said  
13:36:36 18 that and you know from his prior conviction, he was basically a  
13:36:42 19 mule. He's the guy that would haul drugs, money, guns, whatever.  
13:36:46 20 He would drive the stuff, but he's kind of a legend in his own  
13:36:49 21 mind because he said, I was in charge of a lot of people.

13:36:54 22 And we brought up the fact that in all of his prior  
13:36:58 23 testimony or anything he ever said to people, he had never  
13:37:00 24 mentioned, oh, by the way, we also invested in horses. That came  
13:37:03 25 up when he found out through his lawyer, David Parras, that, oh,



13:37:10 1 by the way, the government in the Western District is interested  
13:37:12 2 in Zetas doing horse stuff. That would be another opportunity  
13:37:15 3 for you to testify.

13:37:16 4 And he made this wild claim and you know it's either a  
13:37:21 5 wild lie or it was just ineffective, but he told y'all that he  
13:37:25 6 arranged to pay the gatekeeper to open the gates so that  
13:37:32 7 Mr. Piloto would get out of the gate first. We'll talk about  
13:37:37 8 that in a moment.

13:37:41 9 The government asked Cuellar to look around the room,  
13:37:45 10 you see people you know sitting at this table, and they pointed  
13:37:48 11 right at Fernando Garcia and they said, do you know him? No. He  
13:37:53 12 he's had no dealings ever with Fernando Garcia. He's never heard  
13:37:57 13 the name. He also said he knew Francisco Colorado and that was  
13:38:12 14 pretty funny. The government said, well, where is he? He looked  
13:38:15 15 at the table and he said, I don't see him over here. Whoever he  
13:38:18 16 thought was Francisco Colorado isn't the gentleman sitting there  
13:38:21 17 across from me in court. Where he got that name, we'll never  
13:38:26 18 guess, but he doesn't know him. And when they asked him, is that  
13:38:30 19 -- I don't recognize that guy at all.

13:38:32 20 Hector Moreno also never mentioned Fernando Garcia at  
13:38:37 21 all. Didn't know his name and he claimed that he also paid the  
13:38:47 22 starters for Mr. Piloto to get out of the gate first. And having  
13:38:52 23 had enough of that, what did he do? We introduced Garcia Exhibit  
13:38:57 24 3. You have it. Go back and enjoy it during your deliberations.  
13:39:02 25 It will be a break from everything else. It has to be the most

13:39:06 1 exciting horse race you've ever seen. And remember first he  
13:39:09 2 said, well, I'm not sure if that's that race or not. So we let  
13:39:12 3 it play all the way through, all 20 seconds of this outstanding  
13:39:17 4 race. He said, oh, that is, that -- I remember that. That is  
13:39:20 5 Mr. Piloto.

13:39:21 6 And then we stopped it. We said, okay, you said the  
13:39:24 7 gate was open differently. We stopped it and you can do the same  
13:39:28 8 thing. We stopped it and you saw the gate. There was one  
13:39:31 9 controller for the gate. The gate is mechanical. It opens  
13:39:36 10 exactly the same for every horse and you've got proof of that.  
13:39:40 11 You have the video off of YouTube.

13:39:43 12 And then, he said, well, maybe they slowed the horses  
13:39:46 13 down. Yeah. They slowed the horses down coming out of the gate.  
13:39:49 14 So we went a few more frames, like you can do. Mr. Piloto was  
13:39:55 15 what? What position was he coming out of the gate? Dead last.  
13:40:00 16 When you see the gates opening and you know it just from watching  
13:40:04 17 track meets and if you know about horse racing, the fastest  
13:40:09 18 qualifiers for a sprint, which is 1,200 meters for man or woman,  
13:40:12 19 or 400 meters for a horse. The fastest runners in the best times  
13:40:18 20 have the advantage of running in the middle lanes so they can see  
13:40:23 21 the athletes on either side and tell how they're doing. We  
13:40:28 22 always put the fastest athletes in the middle lane and lanes on  
13:40:33 23 either side, and the worse your time gets, the further out you  
13:40:35 24 go.

13:40:35 25 Mr. Piloto qualified tenth out of ten because he ran a

13:40:40 1 slow heat in his qualifier. He won by a bunch, but he slowed  
13:40:44 2 down because there was no big race. So he had the slowest time  
13:40:47 3 of the ten to make the final of the All American Futurity. So he  
13:40:52 4 was in the outside lane. A horse obviously scratched when only  
13:40:57 5 nine started. It should have been ten. But Mr. Piloto got moved  
13:40:59 6 into nine, instead of ten.

13:41:02 7 And remember what happened. They opened the gate. He  
13:41:06 8 comes out the slowest, and he veers off to the right towards the  
13:41:12 9 rail. What does that mean? That means he's running more  
13:41:16 10 distance than the other horses that are going straight to the  
13:41:19 11 finish line. He's going off at an angle. He's taking extra  
13:41:23 12 steps which slow you down. Now, you have the advantage of not  
13:41:29 13 bumping into other horses which will slow you down, but you're  
13:41:32 14 taking extra steps.

13:41:34 15 And you saw what happened. Mr. Piloto got -- the  
13:41:36 16 jockey managed to ride him when he got about two meters or less  
13:41:40 17 from the rail, and he went straight down the track, and in the  
13:41:44 18 midpoint -- and you can tell the shadows. The track runs north  
13:41:47 19 south, and you can see the shadows going east to west, and they  
13:41:50 20 do that so the horses don't have sun in their eyes when they're  
13:41:52 21 racing. And when he's going down that track, he's going south, I  
13:41:58 22 guess, because the shadow's coming from his right to left, from  
13:42:02 23 the west across, at 4:49 p.m. on 6 September of 2010. You can  
13:42:08 24 see from the shadows there were straight lines. At the midpoint,  
13:42:12 25 he is dead last.

1 But you could tell he's accelerated and over the next  
2 couple of hundred meters, he runs down the field and wins in a  
3 photo finish. A thrilling race. It proved to you two things  
4 about Mr. Piloto. One, genetically he has his mom and dad's and  
5 his family tree's pure, raw, unadulterated speed. Only God can  
6 give you that coordination to run that fast. He has that  
7 genetically from his family on both sides and because horses are  
8 pretty smart animals. These race horses know they're supposed to  
9 win.

10 He ran down the field after a horrible start and he won  
11 the race by a fraction. He has an incomparable spirit and he has  
12 unbelievable speed. At 4:49 p.m. on 6 September 2010, he was the  
13 fastest quarter horse in America, and he won the All American  
14 Futurity. He comes from one hell of a family.

15 And you know that Corona Cartel, which we've heard from  
16 Butch Wise, the trainer, Mr. Mendoza, I believe it was, and  
17 another gentleman, Matt, I think it was, Witman. Corona Cartel  
18 won a couple of races, including the consolation a year or two  
19 earlier at All American. He was the eleventh fastest horse at  
20 the All American in his day, and he won another big race. His  
21 total range was about half-a-million dollars, and they retired  
22 him because the value of a race horse is what? Breeding.

23 When a male horse runs, he is a colt, and then, when  
24 you take him out and start breeding him, he is called a stallion.  
25 Just like the female is a filly when she's racing, and when she

13:44:09 1 starts breeding, she's a mare. Well, that young colt Mr. Piloto  
13:44:16 2 won one race, but it was the biggest race in quarter horse  
13:44:22 3 history -- in the world of quarter horse racing. He won a  
13:44:25 4 million dollars twice, like Corona Cartel won.

13:44:29 5 And we know that Corona Cartel -- we're guessing,  
13:44:32 6 figuring out, you know, will he be producing semen until he's 26,  
13:44:36 7 27? Should. He could be worth over a hundred-million dollars as  
13:44:41 8 a breeding stallion. He was only worth half a million as a race  
13:44:46 9 horse during his short career because he's too valuable as a  
13:44:50 10 stud. Same thing with mares. If a filly is a champion, like  
13:44:54 11 Pilots Point, Ms. Pilots Point, after she wins a couple of races,  
13:44:59 12 you stop and she becomes a mare, breeding with Mr. Jess Perry and  
13:45:04 13 creating Mr. Piloto and other fine horses. That's where the  
13:45:09 14 value of a race horse is. It could be 200 times the value that  
13:45:12 15 the horse could make running in a race. So breeding is where the  
13:45:19 16 money is.

13:45:22 17 The government brought in a third witness to talk about  
13:45:24 18 fixing that race that you know it wasn't fixed. Maybe they tried  
13:45:28 19 to fix it, but they did a bad job. The only horse that was slow  
13:45:32 20 coming out of the gate was Mr. Piloto.

13:45:36 21 I believe that you're the only court in America to have  
13:45:42 22 a single-digit Zeta testify or even in the courtroom. And how  
13:45:52 23 remarkable that his nickname is "Mamito," which he said means  
13:45:56 24 something about magic. Hasn't he earned that nickname? He  
13:46:04 25 brutally murdered at least 30 Mexicans. He tortured some of

13:46:10 1 them. He was No. 7 of all of the Zetas. That young corporal  
13:46:18 2 left the special airborne services and became a Zeta. He was No.  
13:46:23 3 7. He was at the front of the line when they formed this  
13:46:27 4 outrageous bunch of mercenaries.

13:46:31 5 But when he got arrested for all that he has done to  
13:46:36 6 Mexico, they gave him to the United States. They didn't  
13:46:45 7 prosecute him. A murderer of 30 or more of their people and all  
13:46:50 8 the terrible things he's done, and they hand him to the United  
13:46:54 9 States. Well, that could be good because I don't think Mexico  
13:46:57 10 has a death penalty and we do. We have it in federal court in  
13:47:01 11 every state. Even the states that don't have the death penalty,  
13:47:04 12 in federal court we do.

13:47:05 13 So they hand him over to the United States where he  
13:47:08 14 could get a death sentence because he didn't kill -- we can't  
13:47:10 15 prosecute him for killing Mexican citizens in Mexico. But how  
13:47:15 16 about if in February of 2011, a magician orders some of his  
13:47:22 17 henchmen: You see that Chevy suburban with United States  
13:47:26 18 diplomatic plates, I want you to stop it and kill the people  
13:47:29 19 inside it. He gave him that order and they killed ICE Special  
13:47:34 20 Agent Jaime Zapata, an American. They shot and tried to kill ICE  
13:47:42 21 Special Agent Victor Avila, they managed to escape. He was in an  
13:47:48 22 ambush-protected the vehicle. It was a bulletproof suburban.  
13:47:52 23 But they rolled the window down to try to talk to these monsters,  
13:47:55 24 and they stuck a rifle barrel in and you know the story. They  
13:47:58 25 shot everybody.

13:47:59 1 Well, Special Agent Avila managed to escape with his  
13:48:03 2 life. And you know what happened, even if you don't remember  
13:48:06 3 seeing it on television, some spokesman for the United States  
13:48:10 4 government said, we will not rest until we get these people in a  
13:48:13 5 courtroom and bring justice. And you know the justice for the  
13:48:19 6 magician, we're not charging him with killing an American agent  
13:48:25 7 and trying to kill --

13:48:27 8 MS. FERNALD: I'm sorry, I'm going to object because  
13:48:28 9 there was no evidence in the record that this witness ever made  
13:48:32 10 that order on that particular case. There is zero evidence to  
13:48:36 11 that effect.

13:48:39 12 MR. FINN: There's evidence.

13:48:40 13 MR. WOMACK: You may recall differently that the  
13:48:42 14 witness said that he had confessed in Mexico to ordering that be  
13:48:46 15 done, but they tortured him into it. Do you remember the torture  
13:48:49 16 they did to the magician? They put a hood over his head, holy  
13:48:56 17 mackerel, no wonder he confessed to something he didn't do. They  
13:48:58 18 put a hood over his head. You're kidding me. Do you think he  
13:49:03 19 put hoods over the head of people that he tortured? Is that what  
13:49:06 20 he did when he said that he tortured people?

13:49:09 21 But he said that was enough torture that he falsely  
13:49:12 22 confessed to killing an American agent. And we will never know  
13:49:18 23 if we could convict him because he has a deal, he told us, I'm  
13:49:22 24 not being charged with that. I hope that made you as sick as it  
13:49:31 25 did me.

13:49:34 1 Tyler Graham told you that Fernando Garcia is the only  
13:49:46 2 college trained -- or person he ever met in the horse business  
13:49:51 3 pursuing a college degree in racing. You've heard from numerous  
13:49:54 4 witnesses, including these certain few that actually knew  
13:50:00 5 Fernando Garcia. He represents a lot of folks in buying horses.  
13:50:02 6 He's an agent. And you know from other witnesses you can only  
13:50:06 7 interact, take care of horses if you are an owner or an agent. I  
13:50:10 8 can't just walk up and say, hey, I'll arrange shipment of that  
13:50:14 9 horse. If I don't have some authority, I can't do it. I have to  
13:50:17 10 be an owner or an agent.

13:50:21 11 The government had some other witnesses that were not  
13:50:27 12 criminals. Tammy Canida from the American Quarter Horse  
13:50:31 13 Association knows Fernando Garcia. All the -- most of the  
13:50:36 14 businessmen came in here, businesswoman told you, we know  
13:50:39 15 Fernando Garcia. He's a horse owner and he's an agent for a lot  
13:50:42 16 of different people, not just Mr. Colorado, which would be a  
13:50:44 17 great client. He buys the best horses. So that's a client you  
13:50:48 18 want to have.

13:50:50 19 And Jose Trevino, although he's building his business,  
13:50:54 20 he's buying good horses, too. So if you're Fernando Garcia and  
13:50:57 21 you're trying to break into the horse business and really get a  
13:51:00 22 name for yourself as the wonder kid -- you know, people say he  
13:51:04 23 has expertise, he is an expert. He's young in it. Doesn't have  
13:51:07 24 the great experience that Mr. Huitron has had, "Chevo" in  
13:51:11 25 training horses for decades, but he's really smart. And as he



1 proved through Mr. Piloto, he identified him, bought him for a  
2 song, and ultimately trained him up to win a million-dollar race  
3 for Jose Trevino. It's easier to be a great trainer and to be a  
4 great picker if you really get to buy the good horses. And  
5 Fernando Garcia is the kind of guy you have do that.

6 Felipe Quintero, I think, is the one that had a phone  
7 number that said, Fernando Z. He told you that was a joke.  
8 Nobody in Mexico is going to put a Zeta sign by anybody's name,  
9 realistically. They'd kill you. And all these other people that  
10 the government claims are really connected to the Zetas and have  
11 met them, like Nayan, he didn't have a Z by his. He put a Z by  
12 Fernando because it was a joke, because that would offend  
13 anybody, and he said, I didn't know how to take it out. But  
14 that's why he put that in there.

15 Obviously if there was one picture, one e-mail, one  
16 text message, one phone call, one file of any kind where Fernando  
17 Garcia had ever met or talked to "40," "42," Rejon, anybody, any  
18 Zetas, you would have seen it on the screen. It didn't happen.  
19 There isn't such.

20 Jane Eckert was very important, it turned out. She's  
21 the office manager for Heritage Place where champions are sold.  
22 One of the great auction horses in quarter horse racing. And she  
23 told you that you know the government had made -- in fact, it's  
24 one of the overt acts in the indictment, and you'll agree it's  
25 like No. 18 or so.

13:53:02 1 They only alleged three things of overt acts involving  
13:53:07 2 Fernando, but the second one, it says that he directed structured  
13:53:10 3 deposits or structured payments of \$51,700. And Jane Eckert  
13:53:17 4 debunked that and Special Agent Johnston with the DEA, who took  
13:53:21 5 all -- obtained all the e-mail records for Fernando Garcia.

13:53:26 6 Fernando has only had, you know, since even high school  
13:53:30 7 one e-mail address, Fernie004 at something. You have it. It's  
13:53:35 8 the only e-mail address he's ever had. He didn't switch it when  
13:53:38 9 he works for the Zeta. He's only had one e-mail. His computer  
13:53:43 10 goes back several years, at least four. He doesn't change. His  
13:53:48 11 phone that the special agent said he didn't change his phone.  
13:53:53 12 And both of them identified the e-mail chain for someone named M.  
13:53:58 13 Canales sent deposit slips, proving deposits had gone into the  
13:54:04 14 bank account of Heritage Place, and he sent it to somebody called  
13:54:08 15 Papalotes, or something like.

13:54:11 16 And then, Papalotes forwarded to Fernando to forward to  
13:54:15 17 Heritage Place because they wanted to know if they were paid the  
13:54:17 18 balance of all these horses. There was a lot of money. There  
13:54:20 19 was like two-and-a-half, three million dollars and there was  
13:54:23 20 51,000. Fernando Garcia couldn't have made those deposits. You  
13:54:27 21 see nothing, no phone call, e-mail, text message, nothing where  
13:54:31 22 he directed anyone to make those deposits. He wanted proof for  
13:54:36 23 Heritage that they'd been paid, but he didn't make any directions  
13:54:39 24 to anyone how they were paid. Ever. Look at the records.

13:54:42 25 Special Agent Pennington knows that kind of stuff.

13:54:45 1 He's an IRS agent a long time, great guy. Knows what he's doing.  
13:54:49 2 You've seen him for four weeks. He said, we have no proof at all  
13:54:54 3 of Fernando Garcia making structured payments to anyone. Special  
13:54:58 4 Agent Lawson, good guy. Just like Special Agent Pennington.  
13:55:03 5 What did he tell you? He said no e-mails, no nothing showing  
13:55:09 6 Fernando Garcia did anything wrong.

13:55:11 7 But I don't think he was an agent for all these people.  
13:55:16 8 He's entitled to say that. But you know that's ridiculous. If  
13:55:19 9 you're not an agent, you don't get to speak for one. You're  
13:55:22 10 either an owner of a horse or you're the agent for the horse, or  
13:55:25 11 you don't get to take the horses to the vet or arrange for them  
13:55:30 12 to be fed, or housed, or moved. Fernando Garcia was an agent,  
13:55:34 13 and none of the people that he would have worked for, of all  
13:55:36 14 people you've heard about and ones you didn't hear the names of  
13:55:40 15 because they weren't involved in the case, none of them --  
13:55:43 16 there's no suggestion in the record anywhere that any of those  
13:55:46 17 people say, I work for the Zetas, help me out.

13:55:51 18 There was absolutely no suggestion that he knew that  
13:55:55 19 there was a money-laundering scheme and that he willingly  
13:55:59 20 participated in that. It didn't happen. He was not a knowing  
13:56:03 21 participant of any scheme, I don't care what the scheme,  
13:56:06 22 involving any of these five. But that's for you to decide.

13:56:13 23 An exhibit I want to show you I think is really  
13:56:27 24 important to you is Government's Exhibit 140. Again,  
13:56:36 25 Government's Exhibit 140 is two documents. The first one is a

1 sales contract, dated July 10, 2010, from Fernando Garcia, and  
2 it's actually two -- as we know, Jose Trevino, doing business as  
3 Tremor Enterprises. I told you in opening statement that  
4 Fernando Garcia met Jose Trevino basically over Mr. Piloto. This  
5 is proof of that. If March of 2010 more or less is when Fernando  
6 would have first met Jose Trevino, according to the evidence  
7 Special Agent Lawson testified to at length. And what happened?

8 Over the next few months, Fernando was training  
9 Mr. Piloto. He had taken him to Ruidoso to his stables in New  
10 Mexico, getting ready for the All American. He was training him  
11 in the right environment, right altitude, and he's a really smart  
12 trainer. Mr. Piloto started doing better, and he came to the  
13 attention of Jose Trevino.

14 And by July of 2010, 10 July, Jose Trevino was  
15 convinced enough of the progress of this great horse and the  
16 prospect that he would enter into a contract to buy that horse.  
17 Now, you haven't seen any of the sales contracts, have you, in  
18 this case? It proves that Fernando Garcia and Jose Trevino  
19 didn't know each other that way. If they were coconspirators, it  
20 would be a handshake. It would be at the wink of an eye. They  
21 wouldn't have written contracts to sell the horse, they won't  
22 need that. But they didn't know each other that well, so both of  
23 them, for their own protection, entered into a written contract.

24 That commenced, as you know from Bill Price, when a man  
25 says, I'll send you my horse for a price and they shake hands or

1 they sign on the dotted line, you expect all to live up to that  
2 and the seller will not sell the horse out from under you. Well,  
3 here, they can't because you have a contract. So Jose Trevino  
4 had locked in that horse, but he could always just choose not to  
5 pay for it and the sale would never go through.

6 So for the next couple of months, Mr. Trevino, again,  
7 because he's a smart guy, cautious with his money, he watched for  
8 the next couple of months and Mr. Piloto went faster and faster,  
9 and, lo and behold, in mid-August, what did he do? He qualified  
10 for the All American Futurity. And it was after that that Mr.  
11 Trevino said, I'll buy that horse now. He already had a contract  
12 to hold it.

13 Now, he actually came to the, wow, I'll buy it now, and  
14 they already agreed on the price back in July. Fernando couldn't  
15 raise the price now that he has qualified for the futurity. They  
16 had a deal.

17 Well, there's another document with 140 and it's dated  
18 20 September 2010. Now, this is two weeks after the All  
19 American. Fernando had already produced a \$1 million winner in  
20 Mr. Piloto, but he had Number One Cartel, which is another great  
21 horse with a great family. But they still don't know each other  
22 that well. They certainly weren't coconspirators. And they  
23 executed another written contract for Number One Cartel.

24 The snitches for the government that testified, one of  
25 them claimed he was actually with "40" -- a couple of them said

14:00:14 1 they were with "40," talking about quarter horses. They watched  
14:00:18 2 Mr. Piloto race. When "40" was making his bald claims, oh, yeah,  
14:00:22 3 we paid the gatekeepers. Don't worry about it, we fixed it. Of  
14:00:26 4 course that never happened. At least it wasn't effective if he  
14:00:29 5 tried it.

14:00:30 6 But the important thing was "40" said that Nayan was  
14:00:35 7 the trainer for Mr. Piloto. "40" knew Nayan's name. I don't  
14:00:41 8 know whether he really knew him, but he at least knew his name.  
14:00:44 9 He'd never heard of the name Fernando Garcia or Felipe Quintero.  
14:00:47 10 Felipe was the named program trainer. Fernando, we know, was the  
14:00:51 11 real trainer. He got the buckle from Felipe. "40" didn't  
14:00:58 12 mention his name because he's never heard the name. He's never  
14:01:01 13 met Fernando, doesn't know anything about Fernando. If there's  
14:01:05 14 anything there, it was so secret.

14:01:09 15 One last thing. The government found on the computer a  
14:01:12 16 file that had this article on the Zetas. We don't know where it  
14:01:17 17 came from. We don't know if it was ever printed. We don't know  
14:01:19 18 that it was ever read. We don't know what year. I think it will  
14:01:22 19 be on the document what year it was written. But if you look  
14:01:24 20 through it, like I asked Special Agent Lawson, you'll find all  
14:01:29 21 kinds of names from Pablo Escobar in Columbia all the way down to  
14:01:32 22 Rejon, Enrique Rejon, the magician. He is named in that article.  
14:01:39 23 But there is no mention of the lower number Zetas "40" and "42"  
14:01:44 24 that the government claims are actually head of the Zeta when  
14:01:47 25 they're not even named in there anywhere.

14:01:48 1 When I asked the special agent about that, he said,  
14:01:51 2 well, I only read the first page. And I said, well, then, take a  
14:01:53 3 while and look at it. He said, well, I looked at it cursorily,  
14:01:57 4 and I don't see it. I said, take your time to read the whole  
14:02:00 5 thing, and the government still said, no. We'll stipulate Miguel  
14:02:04 6 and Omar Trevino are not named anywhere in that article.

14:02:06 7 If you had read that article, there is nothing in there  
14:02:09 8 that will put you on notice at all that Miguel Trevino-Morales,  
14:02:14 9 or Omar Trevino-Morales or someone called "40" or "42" had  
14:02:19 10 anything to do with the Zeta organization. You would have seen  
14:02:23 11 No. 7. I don't think they had a number, but they had his name  
14:02:25 12 Enrique Rejon, something or another, the magician who doesn't  
14:02:31 13 know Fernando.

14:02:33 14 When you go to deliberate, if you find the witnesses  
14:02:38 15 have all been credible, or if you find the criminals not to be,  
14:02:42 16 it makes no difference for Fernando Garcia. There is no evidence  
14:02:45 17 at all that he joined a conspiracy. Not one document, not one  
14:02:50 18 text message, not one phone call. Counsel for Jose Trevino says  
14:02:56 19 is he like a master criminal that was so smart? Was Fernando  
14:02:59 20 such a master criminal that the government just couldn't find  
14:03:01 21 something on him? They presented nothing.

14:03:05 22 And your sworn duty, what we all expect of you is that  
14:03:11 23 if you have a -- you have to hesitate to act, you have a legal  
14:03:16 24 and moral obligation to find Fernando Garcia not guilty. Under  
14:03:23 25 our system, like Mike DeGeurin said, the best there is, you are

14:03:27 1 what stands between a citizen and a prison cell or some kind of  
14:03:31 2 conviction. We put all of this -- we have judges with decades of  
14:03:36 3 experience.

14:03:47 4 But judges have tremendous experience. Lawyers have  
14:03:51 5 experience. We would trust this decision only to you. And the  
14:03:55 6 one common denominator among every one of you is what? Well, of  
14:03:59 7 course, you're American citizens. The other thing is you're a  
14:04:02 8 registered voter. You can check every one of you is a voter.  
14:04:05 9 That's how you get on the rolls to be a federal juror.

14:04:08 10 Whether you vote in elections or not, if you vote for  
14:04:11 11 one party or another, matters nothing. You cared enough to  
14:04:17 12 register to vote. You cared enough for your country to do that.  
14:04:21 13 That says something about you. And you swore before God that  
14:04:24 14 you'd do the right thing in this court and that's all I ask.  
14:04:28 15 Thank you.

14:04:33 16 THE COURT: Mr. Esper.

14:04:37 17 DEFENDANT EUSEVIO HUITRON'S CLOSING STATEMENTS

14:04:49 18 MR. ESPER: May it please the Court, counsel, all  
14:04:51 19 counsel.

14:04:52 20 Ladies and gentlemen of the jury, I know it's starting  
14:05:05 21 to get late in the day, and I'll try to be as brief as I can.  
14:05:10 22 The author Harper Lee wrote a book many years ago, called To Kill  
14:05:14 23 a Mockingbird, and she talked about the novel's protagonist  
14:05:20 24 Atticus Finch and how he describes the jury system, and it was  
14:05:25 25 his opinion that the jury system was not an ideal system. It



1 wasn't ideal, it was a living, working reality. And that's what  
2 all of you are to this system. A living, working reality.

3 And through the years in all the cases I've had,  
4 whether they lasted two months, three weeks, three days, I've  
5 always grappled with finding the right words to convey to members  
6 of a jury my gratitude and my appreciation, not only on behalf of  
7 myself but on behalf of my respective client for the job that  
8 every jury does because you are a living, working reality of this  
9 system. And so, in trying to find the right words, I just kind  
10 of narrowed it down to two, and that's to simply saying thank  
11 you.

12 Now, ladies and gentlemen, his Honor has told you and  
13 has given you a number of legal principles and the applicable law  
14 in this case, and I want to talk about just a few of them with  
15 you because I think they're important. The first one is a legal  
16 principle called the right to remain silent. An accused in a  
17 criminal courtroom has the right to remain silent. That fact  
18 cannot be held against him. All of you heard that during jury  
19 selection four weeks ago, and all of you said that you would  
20 follow that instruction. And I sincerely believed that.

21 Of course, applying it is hard because we don't live  
22 our lives that way. We live our lives just the opposite. And if  
23 you'll permit me to be anecdotal, I could demonstrate how. About  
24 20 plus years ago -- I have two daughters and about 20-plus years  
25 ago, when they were little girls and I was a much younger man, I

14:07:23 1 came home from work one day and they were -- summer, they were  
14:07:27 2 outside playing with the neighborhood friends. And, of course,  
14:07:31 3 for those of you who have little children, especially those of  
14:07:35 4 you that are fathers, that's a special time when they're little  
14:07:39 5 girls.

14:07:39 6 And so, they came up to me and they were playing with  
14:07:42 7 their friends and playing softball out in front of the house and  
14:07:45 8 came up to me, daddy, you know, we missed you. So I said, girls,  
14:07:48 9 okay, look, you're playing softball, please be careful how you're  
14:07:51 10 playing in front of the house because we have a lot of windows on  
14:07:55 11 the front, and they said okay. So I go inside and I'm not in  
14:07:59 12 there ten minutes, and I hear a sound that I immediately  
14:08:02 13 recognized of glass breaking.

14:08:05 14 So I go outside and, of course, all the other  
14:08:07 15 neighborhood kids have scattered, and there's my two little  
14:08:12 16 daughters Jacqueline, who's six, Stephanie, who's four, and I  
14:08:16 17 have the ball in my hand and I said, Jacqueline, did you break  
14:08:19 18 this window? And she looked up at me, of course, she's about  
14:08:24 19 four-feet tall and I'm six-foot-four, and with as much courage  
14:08:30 20 and nerve as she could muster in her little body, traits I assure  
14:08:35 21 you she inherited from her mother, she said, dad, I'm taking the  
14:08:39 22 fifth.

14:08:39 23 Well, you know, ladies and gentlemen, I have to bite my  
14:08:41 24 tongue. First, I bit it because I didn't want to show my anger  
14:08:46 25 because -- and my anger was a natural reaction. Someone accuses

14:08:51 1 you, you accuse your child, you don't want to hear them saying,  
14:08:55 2 I'm going to take the fifth. I'm going to invoke my right to  
14:08:57 3 remain silent. On the other hand, after my temper had subsided,  
14:09:01 4 I still bit my tongue because I wanted to say, this is dad's  
14:09:06 5 girl, this is papa's girl.

14:09:08 6 The point I'm getting at, ladies and gentlemen, when  
14:09:10 7 you come into a court of law, you can't use that. In our  
14:09:15 8 everyday lives, we think that way, and it's all right to think  
14:09:17 9 that way. It's the right way to think. But you come into a  
14:09:20 10 court of law and an accused who had been faced with an accusation  
14:09:25 11 says, I'm remaining silent, I'm not going to testify. All of  
14:09:28 12 you, I know, will hold yourselves to that oath because in this  
14:09:31 13 case, this man right here, "Chevo" Huitron, has not testified.

14:09:35 14 Now, there's another instruction that I think is very  
14:09:39 15 significant in this case, and that is the conspiracy instruction  
14:09:44 16 because that's what the crime here is charging. A conspiracy to  
14:09:48 17 commit money laundering. Now, I'm not going to go into the  
14:09:52 18 money-laundering definitions. I've been trying to get -- embrace  
14:09:56 19 my arms around it for 30 years and I'm not sure I get it. All of  
14:09:59 20 you know, I know, will try to grasp it.

14:10:01 21 But a conspiracy is an unlawful agreement to violate a  
14:10:08 22 law. And in this case, two or more people have to intentionally  
14:10:15 23 and knowingly and willfully agree with the intent to commit that  
14:10:22 24 crime. They've got to come into the agreement knowing of the  
14:10:26 25 unlawful plan, and they do it knowingly and voluntarily.

14:10:32 1 Ms. Fernald gave you the example of Mr. Gardner here  
14:10:36 2 being a bank robber. Maybe in some other life he was but not in  
14:10:40 3 this one. And that Mr. Pennington and Mr. Lawson knew he was a  
14:10:44 4 bank robber, and he asked one of them, can you go buy me a car?  
14:10:50 5 That doesn't make him a conspirator. Even though he knows he's a  
14:10:54 6 bank robber and he asked him to buy a car, that does not make him  
14:11:01 7 guilty of a conspiracy.

14:11:02 8 What makes him guilty is if he goes, buys the car,  
14:11:06 9 knowing that Mr. Gardner is going to commit a bank robbery.  
14:11:10 10 That's the key. Knowing that of the unlawful purpose. If he  
14:11:15 11 asked Mr. Lawson to go fill up the gas tank, that doesn't make  
14:11:19 12 him a conspirator. It only makes him a conspirator if he knows  
14:11:24 13 that the funds that he's ponying up for that gas tank are going  
14:11:28 14 to be used to drive the car to rob the bank; then that makes him  
14:11:32 15 a conspirator and guilty of it. If he doesn't know that, doesn't  
14:11:36 16 make any difference if he knows this man's a bank robber.  
14:11:39 17 Doesn't make any difference at all.

14:11:42 18 Now, what has "Chevo" Huitron done in this case, ladies  
14:11:46 19 and gentlemen? He trains horses. That's all he's ever known in  
14:11:50 20 his life. And I want to flush one thing out real quick. You  
14:11:53 21 know, this doping stuff that goes on in society, it seems like  
14:11:58 22 it's permeated all our sports. He's not on trial for that. You  
14:12:01 23 know, we see it all the time now in cycling, baseball, football,  
14:12:06 24 boxing. It's in horse racing. It's obviously using something to  
14:12:12 25 get an advantage.

1           He's not on trial for that. And that really has  
2 nothing to do with the allegations in this indictment. It has  
3 nothing to do with whether he intentionally and knowingly joined  
4 into this conspiracy. So, please, if you want to punish him for  
5 that, he's already been punished for that.

6           But to be a member of a conspiracy, you have to enter  
7 into an agreement to violate the law. And in giving the  
8 definition, Ms. Fernald pulled out certain portions of it, which  
9 if I were in her shoes, I would have done the same thing, just  
10 like I'm going to show you, ladies and gentlemen, what is  
11 significant in this case.

12           And that is on page 15, and when you go back into the  
13 jury room and you have these instructions with you, please,  
14 ladies and gentlemen, please read that language very carefully  
15 because in the definition of a conspiracy, besides not only  
16 intending to join a conspiracy, knowing of the unlawful nature of  
17 it, there are others -- some other factors, which are mere  
18 presence at the scene of an event. Even with knowledge that a  
19 crime is being committed, or the mere fact that certain persons  
20 may have associated with each other and may have assembled  
21 together and discussed common aims and interests does not  
22 necessarily establish proof of the existence of a conspiracy.

23           And, also, a person who has no knowledge of a  
24 conspiracy but who happens to act in a way which advances some  
25 purpose of a conspiracy does not thereby become a conspirator.

14:13:54 1 "Chevo" Huitron is a horse trainer. He trains horses. That  
14:14:01 2 sentence, I submit to you, describes his situation in this case  
14:14:07 3 and is the backbone of why I submit to you he's not guilty of  
14:14:11 4 this offense. He trains horses.

14:14:15 5 Now, the government's going to have to establish that  
14:14:19 6 he, this man right here, this man who works 15 hours a day, seven  
14:14:25 7 days a week, knew that the moneys that were being paid to him for  
14:14:31 8 the 30 or 40 horses that he trains constantly, knew that those  
14:14:36 9 funds came from cocaine distribution, extortion, or race-fixing.  
14:14:44 10 Where, ladies and gentlemen, has that evidence come from?

14:14:49 11 His Honor tells you that you are the judges of the  
14:14:52 12 credibility and believability of the witnesses, and so, when I  
14:14:55 13 talk about where's the evidence, let's talk about these  
14:14:57 14 witnesses. Now, that means that you can believe everything that  
14:15:02 15 a witness says, you can believe nothing what a witness says, you  
14:15:06 16 can believe parts of it, disbelieve other parts. Witnesses who  
14:15:09 17 are testifying for some benefit. His Honor tells you, receive  
14:15:14 18 that evidence with great caution and weigh it with great care.

14:15:18 19 Now, I have divided the three groups of witnesses --  
14:15:23 20 all the witnesses who testified in this case into three groups,  
14:15:27 21 and the first group is what I call the dark cloud witnesses or  
14:15:32 22 players. These are individuals who are sinister, ladies and  
14:15:39 23 gentlemen. I call them the dark clouds. Miguel Trevino, Omar  
14:15:44 24 Trevino, Mr. Cuellar, his right-hand man Moreno, Mr. Rejon,  
14:15:51 25 "Mamito," Mr. Guadalajara, Mr. Hinojosa, Mr. Mata.

14:15:59 1           These are the dark clouds because these are all  
14:16:04 2 individuals -- and do not be fooled. These are all individuals  
14:16:07 3 who flooded, flooded this country with tens of thousands of  
14:16:15 4 pounds of cocaine. They destroyed who knows how many lives. Who  
14:16:22 5 knows how many lives they've destroyed.

14:16:24 6           But you know what? They don't care how many lives  
14:16:27 7 they've destroyed. They do not care at all because while they  
14:16:31 8 were flooding this country with all their cocaine, they were  
14:16:36 9 doing it for one reason, and that's to put money in their pocket  
14:16:41 10 because it's all about them and it always will be.

14:16:45 11           Now, they get apprehended, whether voluntary or not,  
14:16:51 12 and they come to the United States. Now they're prosecuted. Now  
14:16:56 13 they get up on the witness stand and want to convince you that  
14:17:00 14 they're trying to do the right thing. They're not. Do not be  
14:17:05 15 fooled. It's all about them and it always will be. They're  
14:17:11 16 wanting to get out of prison early just so they can keep doing  
14:17:15 17 the same nonsense that they've always done. It's always about  
14:17:20 18 them. And they don't care how many other lives. They don't care  
14:17:25 19 if there's one more life that they destroy. Not at all. It's  
14:17:31 20 easy. They're used to doing it. They're used to doing and  
14:17:35 21 destroying lives.

14:17:39 22           Now, these individuals, ladies and gentlemen, are drug  
14:17:43 23 dealers, and drug dealers try to camouflage themselves into  
14:17:50 24 society, whether it's in Mexico, whether it's in the United  
14:17:54 25 States. They don't want other people knowing that they're

14:17:57 1 cocaine dealers, that they're drug dealers. They try to  
14:18:01 2 camouflage that.

14:18:01 3 And in order to camouflage that, the only people  
14:18:04 4 they're going to tell they're cocaine dealers are to people that  
14:18:08 5 they're dealing cocaine with. Mr. Cuellar made the absurd  
14:18:11 6 statement that there's no doubt in my mind that Mr. Huitron knew  
14:18:14 7 I was a cocaine dealer. Come on. I'd asked him earlier: Did  
14:18:18 8 you tell him you're a cocaine dealer? No. Did you tell him this  
14:18:22 9 was drug money? No. That would be dumb.

14:18:24 10 Well, how can you say it's dumb, on the one hand, and  
14:18:26 11 you didn't do it, but, on the other hand, he supposedly knows?  
14:18:30 12 They want to camouflage themselves because they're hiding from  
14:18:33 13 the law both in this country and in Mexico. They're riding from  
14:18:38 14 the law. They're hiding their assets from the law. Now, and so,  
14:18:44 15 consequently, they go to great pains to camouflage what it is  
14:18:49 16 they do.

14:18:50 17 I want to talk a minute about Mr. Cuellar, Mr. Moreno.  
14:18:56 18 These are two individuals who made some comments about Mr.  
14:19:00 19 Huitron, that, oh, yeah, he trains "40 's" horses and "42's"  
14:19:04 20 horses. Where does that come from? It's their testimony. So  
14:19:10 21 you've got to ask yourselves, how believable is that? Oh, well,  
14:19:12 22 I saw him in Mexico 20 or 30 times.

14:19:16 23 Wait a minute. So the government brings in these  
14:19:19 24 border crossings. He crossed seven times in three years, and  
14:19:23 25 five of those times, these guys, Cuellar and his little minions



14:19:28 1 had already come into the United States. So on two occasions?  
14:19:32 2 And he wasn't even in Piedras Negras on those two occasions. So  
14:19:36 3 how can a person say, I saw him 20 or 30 times in Mexico? How  
14:19:40 4 can one of them say, I saw him at a table talking with "Cuarenta  
14:19:45 5 40"? How hard is that to make up, ladies and gentlemen? How  
14:19:49 6 hard is that to make up?

14:19:51 7 And what is even more astonishing is that these  
14:19:56 8 individuals, Cuellar, Moreno, Guadalajara, what did Mr. Mata --  
14:20:02 9 you remember Mr. Mata. He's the guy that drove the money  
14:20:05 10 supposedly all the way to Ruidoso, New Mexico. He's one of the  
14:20:08 11 Mr. Cuellar's money drivers. And when I was cross-examining him,  
14:20:13 12 I could tell he didn't really care for Mr. Cuellar.

14:20:18 13 And finally, I just said, Mr. Cuellar is a guy that  
14:20:22 14 doesn't tell the truth. Isn't that right? And his response was  
14:20:29 15 (speaks Spanish). That means a big liar. This is someone that  
14:20:34 16 knows him. He knows that he lies. He knows he lies when it's to  
14:20:39 17 his benefit to lie.

14:20:40 18 Mr. Moreno, this is a man, ladies and gentlemen, if  
14:20:44 19 you'll recall, pled guilty in 2004 in federal court. Lied under  
14:20:50 20 oath to a federal judge. He's going for sentencing and he takes  
14:20:54 21 an oath to tell this federal judge the truth, and he convinces  
14:20:57 22 the federal judge not to give him 120 months but to give him  
14:21:02 23 twelve months and one day in prison. Pretty good salesman.  
14:21:07 24 Under oath in a federal court, just like this, and he convinced  
14:21:11 25 that federal judge to drop from 120 months to twelve months and a

14:21:16 1 day because, Judge, I promise you, I'm not going to do this  
14:21:19 2 again. I promise you. I've learned my lesson.

14:21:21 3 Two years later, him and Cuellar are back rocking and  
14:21:26 4 rolling again. So Mr. Moreno knows what it's like to come into a  
14:21:30 5 federal courtroom, lie and try to convince someone that he's  
14:21:34 6 telling the truth. He convinced a federal judge of it. I hope  
14:21:38 7 he didn't convince you of it. You judge his credibility.

14:21:43 8 Now, getting back to the way they camouflaged into  
14:21:48 9 society. They don't want people -- whether it's "Cuarenta 42,"  
14:21:52 10 Cuellar, they don't want -- Mr. Guadalajara, that's another guy.  
14:21:58 11 He's a guy that supposedly said, oh, yeah, I had a guy take some  
14:22:02 12 money to Mr. Huitron, and the driver made a joke, oh, where's the  
14:22:06 13 kilos? And an hour later, Cuellar's having to chew out this  
14:22:13 14 little minion, creating the inference that somehow my client  
14:22:18 15 called "Cuarenta."

14:22:19 16 Well, you saw his phone. You got his phone record.  
14:22:22 17 Didn't have any phone calls to anybody. To nobody. And if he  
14:22:25 18 called anybody, which I seriously doubt this even happened, he  
14:22:30 19 would have called Mr. Ramiro Villarreal.

14:22:33 20 Mr. Ramiro Villarreal -- and this is the next group of  
14:22:37 21 witnesses that I put into this case, and these are what I call  
14:22:42 22 the buffers. Mr. Ramiro Villarreal, Mr. Carlos Nayan. These are  
14:22:48 23 two individuals who are individuals who know about the horse  
14:22:53 24 business, and they know who to go to to be able to take this  
14:23:01 25 money. And these are the two individuals, ladies and gentlemen,

14:23:05 1 Nayan and Ramiro Villarreal.

14:23:08 2 We started with Villarreal going back ten years ago up  
14:23:11 3 to his death in 2011, and then, right at the time he dies, Nayan  
14:23:15 4 comes into the picture. These are two individuals who know a lot  
14:23:19 5 about horses. And there are also two individuals who know where  
14:23:23 6 to go look to pay for trainers, vet, jockeys, you name it,  
14:23:30 7 breeding, they know where to go look.

14:23:33 8 And so, these are the two individuals, those are the  
14:23:37 9 two who know the source of the moneys that they're getting. They  
14:23:41 10 know the source of the funds. They know who are giving them the  
14:23:45 11 money. And very interesting, ladies and gentlemen, these other  
14:23:49 12 individuals, Mr. Rejon, these despicable, sinister dark clouds,  
14:23:56 13 not one of them was asked by counsel for the government, would  
14:24:00 14 you identify "Chevo" Huitron in this courtroom? Or let me show  
14:24:04 15 you a photograph. Let me show you a photograph of him. They  
14:24:06 16 didn't ask those guys one time.

14:24:10 17 Now, these guys know who "Chevo" Huitron is. He's a  
14:24:13 18 horse trainer. They know who he is because of Villarreal and  
14:24:19 19 Nayan. I submit, ladies and gentlemen, they don't know who he  
14:24:23 20 is. They've never seen him. They would have identified him in  
14:24:27 21 this courtroom. It's reasonable to infer. They wouldn't even  
14:24:30 22 ask the question because, you see, they don't want to know these  
14:24:34 23 people. They just are working through buffers, Nayan and  
14:24:38 24 Villarreal, to accomplish what they want to accomplish.

14:24:43 25 Now, do you reasonably believe that Villarreal and

14:24:45 1 Nayan are now going to tell someone like "Chevo" Huitron, oh,  
14:24:51 2 these are really "40's" horses, these are "Cuarenta's" horses,  
14:24:55 3 these are Cuellar's horses? Of course he's not going to tell  
14:24:58 4 them that. Of course he's not going to tell them that.

14:25:02 5 And that leads me to the next group of witnesses in  
14:25:07 6 this case, and those are the people who Villarreal and Nayan  
14:25:14 7 duped into doing things that they wanted them to do. Let's start  
14:25:20 8 with, first, Mr. Hernando Guerra. That was Ramiro Villarreal's  
14:25:28 9 buddy. Knew him for 20 years. He's got him depositing money  
14:25:33 10 into his bank account, opening banking accounts, taking checks,  
14:25:38 11 he didn't think anything was wrong.

14:25:39 12 And this was a sophisticated businessperson, ladies and  
14:25:41 13 gentlemen. He's got some sophistication to him. This man has a  
14:25:45 14 sixth-grade education in Mexico, can't read or write. That's  
14:25:50 15 significant, ladies and gentlemen. It's significant.

14:25:53 16 And Hernando Guerra didn't pick up on it until the  
14:25:59 17 twelfth hour. Boy, something is amiss here. This is his friend  
14:26:02 18 for 20 years, and he didn't pick up on it. And Guerra, by the  
14:26:09 19 way, is also a person who tells you that trainers, many times  
14:26:13 20 when they pay for these entrance fees and vet fees, sometimes the  
14:26:18 21 trainer pays for it, sometimes the owner pays for it. Shae Cox  
14:26:22 22 told you the same thing. It's not unusual.

14:26:26 23 Now, Mr. Paez, he's an educated guy. Went to the  
14:26:30 24 University of Monterrey in Mexico. He's the money exchange house  
14:26:34 25 guy. The guy who washed three-and-a-half-million dollars through

14:26:38 1 his money exchange house, profited the whole time from it. And  
14:26:43 2 he's very much the same way as Mr. Guerra: I didn't know. I  
14:26:48 3 didn't know. Mr. Paez, who's sophisticated, he's even got some  
14:26:54 4 obstacles in his business built in to keep away the drug dealers  
14:26:58 5 from laundering money.

14:27:00 6 So what do the drug dealers do? They -- one of their  
14:27:04 7 buffers, Ramiro Villarreal, goes and filters the money through.  
14:27:08 8 But what about the people that are on the recipient end from  
14:27:13 9 Villarreal and these people that are being duped, how do they  
14:27:16 10 know, ladies and gentlemen? What evidence is there that they  
14:27:19 11 know if these people, the ones who are hoodwinked don't know and  
14:27:25 12 didn't know and who are sophisticated?

14:27:29 13 How someone like Mr. Huitron, who can't even operate a  
14:27:33 14 computer, can't even run his own business because he didn't know  
14:27:38 15 how. All he knows how to do is train horses, this is how much I  
14:27:42 16 charge. That's it. That's all we know. This is a man who  
14:27:46 17 works. And just look at him, ladies and gentlemen. And I don't  
14:27:49 18 say this demeaningly, he's weatherbeaten because he works  
14:27:53 19 outside. He works with his hands. He works with his feet. He  
14:27:57 20 toils. He doesn't grudge that toil because that's all he knows.

14:28:02 21 Mr. Stooks, he was the guy that had the Lucky 7, or  
14:28:08 22 Lazy 7, or whatever it's called, he sold a couple of horses to  
14:28:12 23 Ramiro Villarreal. Oh, nice guy. So pay cash for them two  
14:28:15 24 different times, 15,000, 20,000. I didn't suspect anything.

14:28:21 25 Jane Eckert, she was one of the people -- I don't

14:28:25 1 remember exactly what she did. I'm sure you have recollection  
14:28:27 2 that is better than mine. She said, oh, Mr. Villarreal was a  
14:28:30 3 broker for owners of the horses. Fooled her. She didn't pick up  
14:28:38 4 on it.

14:28:42 5 Now, there is Mr. Quintero and Mr. Farias. They're  
14:28:46 6 individuals who say, I didn't neither, but they came in and  
14:28:50 7 entered a plea and decided to cooperate. They said after the  
14:28:54 8 fact, you know, I found out and I'm fessing up to it. Well, his  
14:28:58 9 Honor tells you, ladies and gentlemen, please, please, his Honor  
14:29:01 10 tells you the fact that somebody's entered into a plea agreement  
14:29:03 11 and has pled guilty, that's not evidence of any guilt of my  
14:29:06 12 client. Both of those individuals are trainers, just like Mr.  
14:29:10 13 Huitron is, but that doesn't make Mr. Huitron guilty just because  
14:29:13 14 they pled guilty.

14:29:16 15 Now, finally, we have Tyler Graham, ladies and  
14:29:19 16 gentlemen. And what do we know about Tyler Graham? This is  
14:29:22 17 someone who has horses in his DNA. He's born into horses from  
14:29:27 18 the time he's a little baby. He's out there with his grandfather  
14:29:31 19 and his father. He's out there with horses. He goes to -- he's  
14:29:34 20 an educated person, graduated from Texas A & M. He knows this  
14:29:38 21 business like it's the back of his hands.

14:29:41 22 And so, one day, in 2009, "Chevo" Huitron, who's his  
14:29:46 23 friend, he's trained his horses, he's his friend, and I'm going  
14:29:50 24 to talk about that friendship in just a minute. But he goes to  
14:29:53 25 "Chevo" Huitron -- I got this out through Agent Lawson. He goes

14:29:56 1 to -- "Chevo" goes to Mr. Graham and says, look, there's this new  
14:30:00 2 group out of Mexico. That's nothing new. Half of the U.S. base  
14:30:05 3 -- half of the horse-racing business is non-U.S.

14:30:09 4 But there's a group out of Mexico spending a lot of  
14:30:12 5 money training horses and breeding horses, and I don't think they  
14:30:14 6 know much, but all they're wanting to do is just pile money in  
14:30:17 7 and win. Are you interested in breeding? You know, I thought  
14:30:22 8 maybe you might be interested in breeding. Well, Tyler Graham  
14:30:25 9 scooped that up in a second. Scooped it up in a second. And so,  
14:30:31 10 he goes up there and what he -- you know, takes 850,000 bucks and  
14:30:36 11 buys horses. And his own testimony under oath was, I didn't  
14:30:40 12 think I'd done anything wrong.

14:30:42 13 When Mr. -- when the agent here Lawson confronted him  
14:30:46 14 and somehow, he, all of a sudden, starts cooperating, he still  
14:30:50 15 said, I don't think I did anything wrong. Why? He has to have  
14:30:55 16 knowledge that the funds are derived from a specified unlawful  
14:31:00 17 activity and in this case, cocaine distribution. That's when you  
14:31:04 18 become guilty.

14:31:06 19 So what does he do? He said, okay, you can start  
14:31:09 20 listening to my conversations. Now, not one conversation, all  
14:31:13 21 this time, involves "Chevo" Huitron. Not one. And if he's a big  
14:31:18 22 conspirator, you would think Tyler would be on there saying, hey,  
14:31:23 23 "Chevo," you know these guys, you know, this money's dirty money.  
14:31:27 24 In fact, he doesn't say that at all. In fact, "Chevo" comes to  
14:31:31 25 him and says, I'm a little concerned, you know, that Ramiro, they

14:31:36 1 found him died in his car.

14:31:38 2 And now this guy Barradas, he's disappeared. He's  
14:31:42 3 coming to Tyler asking him, what do you think? I mean. Tyler  
14:31:47 4 doesn't say anything to him. All Tyler asked him is, are they --  
14:31:51 5 are you getting slow paid like I am? Yeah, I am. "Chevo"  
14:31:58 6 becomes concerned because these people that he's dealt with, Mr.  
14:32:04 7 Villarreal, is nowhere to be found or he's found dead, arguably,  
14:32:09 8 and the rumor gets out under suspicious circumstances.

14:32:13 9 He didn't know anything about Mr. Nayan because they're  
14:32:16 10 wanting to keep -- they're the buffers. They do the buffing.  
14:32:20 11 They don't let it out to the people, the recipients that, hey,  
14:32:24 12 this is -- these moneys are bad moneys. That's their whole  
14:32:28 13 purpose is to keep this barrier. That's why they're buffers.

14:32:35 14 Now, "Chevo" Huitron and, ladies and gentlemen, this  
14:32:37 15 speaks volumes about what this man is about. Up to the day of  
14:32:43 16 trial, from the time he's charged and he knows that Tyler Graham  
14:32:48 17 is going to be a witness, he goes every week, buys stuff. Buys  
14:32:55 18 feed, whatever it is that they sell. Interacts with him every  
14:32:59 19 week. If a person is guilty, why is he doing that? Why is he  
14:33:06 20 interacting with someone who's going to get up on the stand and  
14:33:09 21 offer testimony negative to him or possibly negative to him?  
14:33:15 22 Only a person who is not involved would do something like that.  
14:33:21 23 Go around every week.

14:33:22 24 And even more significantly, I asked Mr. Graham, did he  
14:33:26 25 ever ask you, Mr. Graham, hey, what are you going to say about



14:33:30 1 me, Tyler? You know, I mean. Nothing. Never asked him one time  
14:33:35 2 about this case, the allegations against him. Only a person  
14:33:41 3 who's not involved would do that. That's "Chevo" Huitron, ladies  
14:33:49 4 and gentlemen.

14:33:49 5 Now, let's talk about some other evidence that was  
14:33:51 6 introduced in this case. No tape recordings with Mr. Huitron.  
14:33:56 7 He's referenced in one record being Ramiro Villarreal and,  
14:34:00 8 arguably, Miguel Trevino when they're talking about what time is  
14:34:03 9 he going to -- when is he going to take the horse up to the  
14:34:07 10 track. That's what he's referenced -- that's how he's  
14:34:11 11 referenced. He's a horse trainer. These two are talking.  
14:34:18 12 When's he going to take the horse up?

14:34:19 13 Ramiro Villarreal is the person who he dealt with along  
14:34:22 14 with Carlos Nayan. And, you know, Ms. Fernald made the comment  
14:34:26 15 about half a million dollars going into this bank account. And  
14:34:30 16 mind you, this is one account. Huitron Homes is one account.  
14:34:35 17 This is a very simple operation. You see all these boxes, ladies  
14:34:39 18 and gentlemen, the beat-up files that's an exhibit I was going to  
14:34:42 19 introduce them. I wouldn't even dare ask you to go through all  
14:34:44 20 that. That was seized from their offices. That's the type of  
14:34:50 21 operation that they run.

14:34:52 22 This is a very elementary, simple situation for them.  
14:34:58 23 They're hard-working people. That's all they know. This isn't  
14:35:02 24 something sophisticated. "Chevo" Huitron doesn't know how to do  
14:35:06 25 anything with the business. His brother who's his keeper offers

14:35:12 1 to help him out. Neither one of them know how to operate a  
14:35:15 2 computer, have no idea. There's no e-mails. Nothing.

14:35:18 3 Mr. "Chevo" Huitron, I asked Shae Cox, does he have an  
14:35:21 4 iPhone? He's got a flip phone. I didn't even know they still  
14:35:26 5 had them. What is significant, ladies and gentlemen, is that  
14:35:32 6 "Chevo" Huitron is not involved in this activity.

14:35:37 7 Now, I think after the -- when the first week was  
14:35:40 8 getting ready to end, maybe it was the second week, they put on  
14:35:43 9 some agents who testified that they came to his house to arrest  
14:35:47 10 him. And they subsequently found in his son's room \$10,000.  
14:35:54 11 Now, the agent said that the son told another agent where the  
14:36:00 12 money came from. I asked him if he prepared a report. I thought  
14:36:07 13 he did, but he didn't.

14:36:08 14 But what's significant, ladies and gentlemen, is the  
14:36:10 15 son explains to the agent where it came from, and don't you know  
14:36:13 16 that if it was some bologna sandwich of an explanation, the  
14:36:18 17 government would be bringing witnesses in here to say, we  
14:36:23 18 investigated this, that's nonsense. More significantly, "Chevo"  
14:36:27 19 Huitron gave them consent to search his house. I mean, the most  
14:36:33 20 private thing in a person's life is your home. He said go ahead.  
14:36:38 21 They read it to him, said, will you give us consent? He said  
14:36:43 22 yes. That's evidence, ladies and gentlemen, of a man who has  
14:36:46 23 nothing to hide. He said, go right ahead.

14:36:51 24 The \$10,000, the son had it, his son gave the  
14:36:55 25 explanation. You also heard significantly from Shae Cox. And

14:37:02 1 what is significant about her testimony, ladies and gentlemen?  
14:37:05 2 Shae Cox is a young lady who is trying to excel and doing very  
14:37:08 3 well as a trainer. It's a profession that is male-dominated, but  
14:37:14 4 yet, she's hanging in there and doing a pretty good job.

14:37:17 5 "Chevo" Huitron takes her under his wing. That's the  
14:37:21 6 type of person he is. Took someone, a female. You don't see  
14:37:28 7 many of them in the horse-training business, at least in the  
14:37:31 8 quarter horse. Maybe in the thoroughbreds. In the quarter horse  
14:37:36 9 takes her under his wing and teaches her how to be a horse  
14:37:39 10 trainer, and she works for him from 2006, 2007, 2008. And what  
14:37:44 11 does she tell you? We work, work, work, work, that's all we do,  
14:37:50 12 12, 15, 18 hours a day.

14:37:52 13 Did you ever see "Chevo" in the office? He had no  
14:37:55 14 idea. He just told them, this is how much he charged. And what  
14:37:58 15 did he charge? A thousand dollars or \$1,100 per horse per owner.  
14:38:03 16 Didn't make any difference who the owner was. And Jessica,  
14:38:09 17 Jesse's daughter, is the person who's doing all the billing and  
14:38:13 18 collecting. "Chevo" Huitron, it's reasonable to infer, said,  
14:38:18 19 these are the people you called. Ramiro Villarreal, Carlos  
14:38:22 20 Nayan. And Carlos Nayan, it's reasonable to infer, said, okay,  
14:38:28 21 call -- if I'm not around, call Victor, or call "Yo Yo," or  
14:38:31 22 whoever else you call.

14:38:33 23 These are people that are -- Nayan and Villarreal were  
14:38:37 24 saying, you can't reach me, these are the people that will pay  
14:38:40 25 your bills. I'll make sure of it. Because, again, they're the

14:38:44 1 buffers. They're not calling "Cuarenta." Mr. Cuellar tries to  
14:38:51 2 tell you, oh, Mr. Huitron came and asked me, hey, can you go talk  
14:38:54 3 to "40" for me? He's not paying me. Oh, come on. I submit to  
14:38:59 4 you, ladies and gentlemen, those witnesses, if this were a drug  
14:39:03 5 case, you could believe it. I mean, they're flat-out drug  
14:39:06 6 dealers.

14:39:08 7 Rejon and the other are killers, they're despicable  
14:39:12 8 people, they're bad people, but they've enacted buffers in front  
14:39:18 9 of them to buff them and shield them from others who are on the  
14:39:21 10 receiving end of people that are trying to funnel their money  
14:39:26 11 into the horse business. But the recipients don't know them, and  
14:39:33 12 there's no evidence that shows that they know them.

14:39:36 13 Now, ladies and gentlemen, Shae Cox also told you that  
14:39:42 14 she left for about two years, came back in 2010 and went to work  
14:39:45 15 for the Elgin Veterinary clinic. Worked there for another couple  
14:39:49 16 of years. And had anything changed with "Chevo"? Nothing. Same  
14:39:55 17 guy. He's got 30 or 40 horses. When she was there in '06, '07,  
14:40:02 18 '08, 30 or 40 horses, let's see, at a thousand dollars a horse,  
14:40:06 19 that's 30 to \$40,000 a month. That's 350 to 400,000, \$450,000 a  
14:40:14 20 year. Now, that's not net obviously, but he had 30 or 40 horses  
14:40:19 21 then. And in 2009, 2010, 2011, he's got 30 or 40 horses, still  
14:40:27 22 charging the same fee, still doing the same work.

14:40:31 23 What about the running of the office? Still the same.  
14:40:33 24 Jessica was the one that was doing the billing, doing the  
14:40:37 25 collecting until late 2011. And then, Jessica got into a beef or

14:40:43 1 something with "Chevo," her uncle. She said I quit.

14:40:50 2 What is significant, ladies and gentlemen, is that  
14:40:52 3 nothing changed. This man was not doing anything illegal before  
14:40:59 4 this conspiracy, and I submit to you he was not doing anything  
14:41:02 5 illegal during the timeframe of this conspiracy. I submit to you  
14:41:06 6 that he wasn't even a knowing member of this conspiracy. This is  
14:41:10 7 a man who works hard. Money launderers don't work hard. They  
14:41:17 8 figure out a way to not work hard.

14:41:20 9 His Honor told you in his instructions about reasonable  
14:41:25 10 doubt, and I submit to you that reasonable doubt applies to  
14:41:29 11 "Chevo" Huitron in this case, and it's the doubt that would --  
14:41:33 12 it's the type of evidence that would cause you to hesitate in the  
14:41:36 13 most important of your decisions. If you have a doubt and it  
14:41:40 14 causes you to hesitate, it's a reasonable doubt.

14:41:43 15 I like to try to use my little pointer here to  
14:41:48 16 illustrate how I think reasonable doubt applies to the way it  
14:41:52 17 should be applied, and I hope you apply it this way.

14:41:54 18 If you take this pointer -- and I'm going to use this  
14:41:58 19 as a spectrum -- and all the credible, believable evidence that  
14:42:04 20 comes -- as you find it lands on this spectrum at some point or  
14:42:09 21 another. If where I have my right thumb and index finger, we're  
14:42:14 22 going to mark this innocent. If the credible, believable  
14:42:19 23 evidence falls to the right of that, your verdict is very simple,  
14:42:22 24 not guilty. Where I have my left thumb and index finger, we have  
14:42:27 25 guilt beyond a reasonable doubt. That's where the government in

14:42:32 1 your mind has proven everything they need to prove. There's no  
14:42:36 2 doubt. If the evidence falls to the left of this point --

14:42:39 3 MS. FERNALD: Objection, your Honor. That's not  
14:42:41 4 correct. No doubt is not a part of reasonable doubt.

14:42:43 5 MR. ESPER: If they have proved beyond a reasonable  
14:42:45 6 doubt --

14:42:45 7 THE COURT: Whoa, counsel when somebody makes an  
14:42:48 8 objection.

14:42:49 9 MR. ESPER: I'm sorry. I'm sorry. I thought she was  
14:42:51 10 finished.

14:42:51 11 MS. FERNALD: Misleading to the jury objection.

14:42:54 12 MR. ESPER: I'll rephrase.

14:42:56 13 THE COURT: All right. Just rephrase.

14:42:56 14 MR. ESPER: If the credible, believable evidence falls  
14:42:59 15 at this point and to the left, this point of proof beyond a  
14:43:03 16 reasonable doubt, then they've satisfied their burden. Your  
14:43:06 17 verdict is guilty. But in our system, ladies and gentlemen,  
14:43:09 18 there is a gray area in between, and this area is what is known  
14:43:15 19 as not guilty. It is an area where the evidence probably shows  
14:43:21 20 the defendant committed the crime. Should have known, possibly  
14:43:26 21 did it, more than likely did it, strong probability he did it.  
14:43:32 22 But it just doesn't get to beyond a reasonable doubt.

14:43:37 23 I ask you, ladies and gentlemen, has the government's  
14:43:40 24 evidence as to my client "Chevo" Huitron satisfied a guilt beyond  
14:43:45 25 a reasonable doubt? This man, ladies and gentlemen, all he has

14:43:49 1 ever known in his life is to work hard. I would ask that all of  
14:43:53 2 you find him not guilty. Don't allow yourselves to convict him  
14:44:00 3 on this evidence because if you do, then you're giving up a  
14:44:05 4 little bit of freedom, I submit.

14:44:07 5 And I know it was said, but it was said a long time  
14:44:10 6 ago, it doesn't take much to give up freedom, but it takes a hell  
14:44:15 7 of a lot to get it back. Send this man back to his family.  
14:44:18 8 Thank you for your time.

14:44:24 9 DEFENDANT JESUS HUITRON'S CLOSING STATEMENTS

14:44:27 10 MR. MAYR: May it please the Court, counsel.

14:44:47 11 THE COURT: Mr. Mayr.

14:44:49 12 MR. MAYR: Ladies and gentlemen of the jury, good  
14:44:50 13 afternoon.

14:44:52 14 Thirteen days, 81 hours, 4,680 minutes is how much time  
14:45:13 15 you have spent by my calculations listening to evidence in this  
14:45:19 16 case. You've heard a lot about Zetas. You've heard a lot about  
14:45:25 17 horse racing. All that time, you've heard about this much about  
14:45:31 18 Jesse Huitron. In his opening statement, 38 minutes in length,  
14:45:38 19 Mr. Gardner spent 20 seconds talking about Jesse Huitron, and the  
14:45:46 20 evidence that they present in this case reflects that. It's not  
14:45:50 21 that they don't care. Trust me, they want to convince you that  
14:45:54 22 my client was involved in this, but they can't do it because the  
14:45:58 23 evidence just isn't there.

14:46:02 24 The reason the evidence isn't there is simple, ladies  
14:46:04 25 and gentlemen. My client was not a part of this conspiracy. He

14:46:10 1 is not a money launderer. His primary purpose in life is not  
14:46:17 2 horse racing. He is a home builder and always will be. He's  
14:46:23 3 committed to building lives, not destroying lives, and that's why  
14:46:28 4 there's no evidence against him.

14:46:31 5 Let's talk about the evidence, or the lack thereof,  
14:46:38 6 that you've heard of in this case. Let's talk about the  
14:46:41 7 witnesses. I'm not going to go through it all again because I'm  
14:46:44 8 at the very end, and you've heard enough about it, about all  
14:46:46 9 these witnesses. Like "Mamito," like Cuellar, like Guerra,  
14:46:52 10 you've heard all that. All I need to ask y'all to do is ask  
14:46:54 11 yourselves: What did they have to say about Jesse Huitron?  
14:47:00 12 Zero. Nothing. They didn't even know who he is. And you would  
14:47:04 13 think that these guys that are getting these huge benefits of  
14:47:09 14 being able to come here and testify knowing that, look, you  
14:47:12 15 cooperate, you have the potential to have years shaved off your  
14:47:15 16 sentence, you won't have charges filed against you, you'd think  
14:47:17 17 they could come up with something. They can't even say they even  
14:47:21 18 know who he is.

14:47:23 19 You heard from the Codefendants Adan Farias, Felipe  
14:47:27 20 Quintero, they didn't say anything about him. You could go  
14:47:30 21 through all of your notes and every single witness and ask  
14:47:34 22 yourself, how many witnesses came here and that testified, we  
14:47:37 23 know this man, or he was involved in this, or he knowingly  
14:47:39 24 participated in the conspiracy, or he knew what these  
14:47:43 25 transactions were about, or that he knew what was going on?



14:47:46 1 None.

14:47:49 2 They brought in Tyler Graham, the one person that you  
14:47:51 3 heard from who knew him. And what did Tyler Graham tell you?  
14:47:56 4 That he knows Jesse. They owned horses together. And is Tyler  
14:48:04 5 Graham under this cloud of suspicion in what he's doing? Is he  
14:48:07 6 going to associate with money launderers and conspirators? No.  
14:48:10 7 He's working with an honest, legitimate person is what he's  
14:48:13 8 doing. Remember I asked him, even though you've known about all  
14:48:16 9 this stuff, did you have any regrets about working with Mr.  
14:48:18 10 Huitron? His answer was no.

14:48:20 11 He never testifies that Jesse knew what was going on.  
14:48:24 12 He never testifies he was a part of this conspiracy. He never  
14:48:28 13 testifies that he knew what was going on or where this money came  
14:48:32 14 from. The only thing he tells you is that he ran Huitron Homes.  
14:48:36 15 He tells you Jessica, she managed the books, she keeps track of  
14:48:40 16 everything. He just made the decisions. We didn't dispute that,  
14:48:45 17 ladies and gentlemen.

14:48:46 18 Tyler Graham, the main person that they have and it's  
14:48:49 19 just like with everyone else, there's not one single telephone  
14:48:51 20 call between him and Tyler Graham. Tyler Graham never goes to  
14:48:54 21 him and asked him, Jesse, what do you know about this? He's too  
14:48:58 22 busy to talk with him because what's he doing? He's out in the  
14:49:02 23 field building homes. That's what you heard from the realtors.  
14:49:05 24 There is not a single witness that could come in and say that  
14:49:08 25 this man was a knowing part of a conspiracy. He knew what was

14:49:12 1 going on, he was knowingly involved in the transactions, because  
14:49:16 2 they don't exist. And the reason they don't exhaust is simple:  
14:49:21 3 He's not a part of this conspiracy. He's not a money launderer.  
14:49:26 4 His primary purpose in life is not horse racing. He is, and  
14:49:30 5 always will be, a home builder.

14:49:34 6 They bring in their agents to offer -- not to offer  
14:49:39 7 proof but to give theories. They give this theory -- Agent  
14:49:44 8 Williams and Pennington testified that they give this theory  
14:49:48 9 that, well, my client is structuring deposits, making structured  
14:49:52 10 deposits based on this Cash Transaction Report. You'll remember  
14:49:55 11 this report and you remember the detail that I went through with  
14:49:58 12 it.

14:49:59 13 Inconsistent information, missing information. You  
14:50:07 14 mean to tell me that my client went to California and went to San  
14:50:10 15 Francisco to make these deposits? This document isn't worth the  
14:50:16 16 piece of paper that it's written on, ladies and gentlemen. It  
14:50:18 17 shows nothing. It certainly shows that my client was not a part  
14:50:23 18 of this. Someone had his information. Victor Lopez obviously  
14:50:27 19 had his information, had his Social Security number, had his  
14:50:31 20 account number. We know he was making some of the deposits.  
14:50:33 21 It's reasonable to infer that that's all that was happening with  
14:50:37 22 the rest of these.

14:50:37 23 But what is clear is that there is no other proof that  
14:50:40 24 they have brought forward to show that he was involved in this.  
14:50:44 25 Remember I asked Agent Pennington, if you can find anything,

14:50:48 1 anything to establish that my client actually traveled to  
14:50:51 2 California or made these deposits right here, bring it on in. It  
14:50:57 3 ain't here because, you know what, it doesn't exist. It doesn't  
14:51:01 4 exist because he's not a part of this conspiracy. He's not a  
14:51:06 5 money launderer. His primary purpose is not horse racing. He  
14:51:09 6 is, and always will be, a home builder.

14:51:12 7           They talk about the cash flow of over 500,000. And Mr.  
14:51:20 8 Esper discussed this with you. They had 20, 30, 40 horses there  
14:51:24 9 at a time, a thousand dollars a month. They were bringing in  
14:51:27 10 large sums of income. We're not disputing that, folks. We're  
14:51:31 11 not disputing that that funds were coming in. But here's what  
14:51:34 12 you really need to ask yourself is, where is the money going?

14:51:43 13           He's certainly not using it to live some extravagant  
14:51:48 14 life. It's not like one day, he's like, oh, wow, I've got all  
14:51:51 15 this extra money in my bank account. If you look at the records,  
14:51:54 16 it wasn't like they had a windfall of money. He's certainly not  
14:51:58 17 using it to improve his life building big houses or driving fancy  
14:52:02 18 cars. You don't see him -- you don't see that money going into  
14:52:08 19 building extravagant facilities at this dilapidated ranch out in  
14:52:14 20 Dale. You see the pictures, ladies and gentlemen.

14:52:21 21           You're not seeing extravagant purchases, or large bank  
14:52:29 22 rolls, or anything else like that, because that's the simple  
14:52:33 23 explanation. He's not a part of this conspiracy. He's not a  
14:52:39 24 money launderer. His primary purpose is not horse racing. He is  
14:52:45 25 always, and will be, a home builder.

14:52:47 1 Now, the government thought that they had us. Ah-ha,  
14:52:51 2 we gotcha. Government's Exhibit 433, here is that piece of  
14:52:59 3 evidence, that piece of evidence that shows that even though it's  
14:53:03 4 Jessica's handwriting on every single document, Jessica's the  
14:53:07 5 only one with access to the computer. Jessica is the only one  
14:53:10 6 who's sending and receiving e-mails, Jessica, Jessica, Jessica.  
14:53:14 7 Here's that one piece of evidence the government says. And  
14:53:17 8 remember what happened. They didn't present this to you in their  
14:53:20 9 case-in-chief. They wait until Shae Cox took the stand, and they  
14:53:23 10 go up there and they're like, well, explain this. Here's the  
14:53:26 11 proof that shows that my client knew what his daughter was doing.

14:53:30 12 But when we take a closer look at this document, it's  
14:53:37 13 for a horse that he's a coowner of. That's his half portion of  
14:53:47 14 the expenses. And this is for a horse in 2008. This is a whole  
14:53:55 15 year before Tempting Dash or any of these other horses come  
14:53:58 16 along. And this is it. If there was any other evidence that the  
14:54:02 17 government could have brought you to show you my client knew what  
14:54:06 18 was going on, you think they would have brought it to you?

14:54:09 19 Now, look, ladies and gentlemen, I don't know what else  
14:54:11 20 Mr. Gardner has in his bag of tricks. I don't know if he's going  
14:54:14 21 to try to bring up anything else because I don't have an  
14:54:16 22 opportunity to respond. What I will tell you is when they have  
14:54:21 23 come at us with something, whether it be the CTR report, whether  
14:54:24 24 it be this, we've had legitimate explanations for every one of  
14:54:27 25 them that shows, again, our client is not involved in this

14:54:30 1 conspiracy, has no knowledge of it whatsoever. So I ask that  
14:54:34 2 whatever -- if he does bring anything to you, that you judge it  
14:54:36 3 with credibility because we've been able to give you legitimate  
14:54:39 4 explanations for every single thing that we've brought you.

14:54:41 5 The fact of the matter is they don't have anything else  
14:54:46 6 other than this for one simple reason. He's not a part of this  
14:54:51 7 conspiracy. He's not a money launderer. His primary purpose is  
14:54:55 8 not horse racing. He is a home builder, ladies and gentlemen.  
14:55:05 9 No witnesses who could say he knew what was going on. No  
14:55:10 10 witnesses who can say he knew where this money was coming from.  
14:55:13 11 No witnesses who can say he knowingly entered this conspiracy.

14:55:16 12 Recorded phone calls. Again, you've heard about all  
14:55:19 13 these different calls. He's not on a single one of them. I  
14:55:22 14 asked Agent Lawson when he was on the stand: Were there any  
14:55:25 15 phone calls where he was discussed, where Jesse Huitron was  
14:55:28 16 mentioned? No. Did you find any telephone calls that he was  
14:55:31 17 involved in? Does that sound like a conspirator when there's no  
14:55:35 18 communications?

14:55:36 19 You heard about e-mails. Agent Johnson went through  
14:55:40 20 thousands and thousands of e-mails, and now you know why you  
14:55:44 21 couldn't find or there were no e-mails involving Jesse Huitron,  
14:55:48 22 because he can't operate a fax machine much less operate a  
14:55:51 23 computer to know how to send and receive e-mails.

14:55:54 24 We know Jessica was sending and receiving e-mails. But  
14:55:57 25 there's not one e-mail that he is responsible for. But, more

14:56:00 1 importantly, they had all these e-mails between Victor Lopez and  
14:56:03 2 Carlos Nayan and all these other individuals. Did you ever see  
14:56:06 3 Jesse Huitron being mentioned? Does that sound like someone  
14:56:08 4 who's a part of the conspiracy? The evidence doesn't exist  
14:56:12 5 because he's not a part of the conspiracy. He's not a money  
14:56:16 6 launderer. His primary purpose in life is not horse racing. He  
14:56:19 7 is a home builder.

14:56:21 8 Surveillance photos, none. Border crossings, none.  
14:56:26 9 Why is that? You've heard from the realtors that he worked with.  
14:56:29 10 He is too busy out building homes to be back at his office  
14:56:33 11 following and taking care of every single one of these  
14:56:36 12 transactions that are coming in and out of his office. Plain and  
14:56:40 13 simple, ladies and gentlemen.

14:56:42 14 So little evidence and, yet, the government wants you  
14:56:46 15 to believe it beyond all reasonable doubt that Jesse Huitron  
14:56:52 16 knowingly entered this conspiracy, knowing what it was for, and  
14:56:56 17 knowingly intending to further that conspiracy. I hope y'all see  
14:57:01 18 what's going on here. They're picking on the little guy. They  
14:57:06 19 think that they can put on all this evidence about the bad Zetas  
14:57:09 20 and all this evidence about the horse racing, and it doesn't  
14:57:12 21 matter who's sitting at this counsel table, you're just going to  
14:57:15 22 find them guilty.

14:57:16 23 You can prevent that from happening and the key to that  
14:57:19 24 is knowledge. The "K" word. The knowledge comes from the  
14:57:25 25 instructions that the Judge gave you, and those instructions tell

14:57:28 1 you that a person is not guilty unless they knowingly enter a  
14:57:33 2 conspiracy intending and knowing what the focus is, intending to  
14:57:37 3 further that conspiracy, knowing what the source of the  
14:57:42 4 transactions are, knowing what it's being used for, and in this  
14:57:45 5 particular case, the government has not established it.

14:57:51 6 It's not about he should have known or he could have  
14:57:56 7 known, maybe he knew. You have to be convinced beyond all  
14:58:02 8 reasonable doubt that my client, Jesse Huitron, knew it. With  
14:58:05 9 this much evidence, you just can't do it. Folks, I have all this  
14:58:13 10 time to talk with you, but there's no more evidence for me to  
14:58:16 11 really talk about because there was nothing else presented  
14:58:18 12 regarding my client in this case.

14:58:20 13 But I do want to leave you on this note. If you  
14:58:24 14 remember at the very beginning of this trial, when you first came  
14:58:28 15 into the courtroom, one of the first things that Judge Sparks  
14:58:31 16 talked to y'all about was the history behind why you all were  
14:58:34 17 here. He talked with y'all about the Magna Carta, oppressive  
14:58:39 18 regimes, the independence of our country. Certain fundamental  
14:58:44 19 rights that we hold to be true and as self-evident and, more  
14:58:47 20 importantly, essential to our survival, and it all boiled down to  
14:58:51 21 this, ladies and gentlemen.

14:58:53 22 The government doesn't get to decide who is guilty.  
14:58:58 23 You do. You, the twelve great citizens who have taken an oath to  
14:59:04 24 render a verdict according to the law and the evidence, an oath  
14:59:10 25 that you will not find a person guilty unless you are without any

14:59:15 1 equivocation, convinced beyond all reasonable doubt that this  
14:59:20 2 person committed the crime that they are charged. You hold their  
14:59:26 3 life, liberty and freedom in your hands. And I'm asking you,  
14:59:30 4 ladies and gentlemen, to take care of the fact that you hold the  
14:59:33 5 life, liberty and freedom of this man in your hands. An innocent  
14:59:39 6 man, an innocent man who the government has failed to prove,  
14:59:43 7 beyond a reasonable doubt, was a part of this conspiracy.

14:59:49 8 I ask that you let him go back to his family and let  
14:59:52 9 him get back to doing what is most important if his life,  
14:59:57 10 building homes and, more importantly, building lives. When you  
15:00:02 11 get to this verdict form, ladies and gentlemen, for my client, I  
15:00:05 12 ask that you find him not guilty.

15:00:12 13 THE COURT: Members of the jury, I'm going to give you  
15:00:13 14 your afternoon break, 15 minutes. Use the facilities, stretch.  
15:00:16 15 Be ready to come back in 15 minutes.

15:00:55 16 (Jury not present.)

15:01:06 17 THE COURT: We're in recess for 15 minutes.

15:15:52 18 (Recess.)

15:15:52 19 (Jury present.)

15:17:39 20 GOVERNMENT'S CLOSING STATEMENTS

15:17:37 21 MR. GARDNER: May it please the Court, counsel.

15:17:41 22 Ladies and gentlemen, as defense attorneys said at the  
15:17:43 23 beginning of this case, they want you to hang your hat on the  
15:17:46 24 cooperators. The cooperators they spent the last three hours  
15:17:50 25 talking about. So this is what I would like to do for the next



1 20 minutes. I want you to forget about the cooperators. I want  
2 you to pretend that they never existed in this case. Ladies and  
3 gentlemen, they hang themselves. Their actions, their e-mails,  
4 their documents, their words, their pictures all speak to this,  
5 that they knowingly participated in a conspiracy to launder  
6 money.

7 Ms. Fernald said their actions speak louder than their  
8 words. I can't go over everything. You have that in front of  
9 you. I can't go over the fact that I believe Mr. Womack was  
10 correct and when Mr. Piloto was transferred during the -- between  
11 those two races, even though the contract is backdated. I can't  
12 go over the false billing records of Jose Trevino for horses he  
13 doesn't even have. For horses he's billing his vet who he's not  
14 even under contract for. I can't go over everything.

15 This evidence is here for you to go over on your  
16 deliberations. But what I want to do for a few minutes or so is  
17 go over a snippet to show that each one of these defendants  
18 knowingly participated in this conspiracy. It's about ego. It's  
19 about pride. It's about winning the horse race at all costs.  
20 It's about establishing the legacy for your family. It's about  
21 being the best trainer, regardless of whether the horse is doped,  
22 or batteries are applied to it to win, or money is applied to the  
23 gate starters to send it down the track.

24 That's what it's about. It's about pride. It's about  
25 having the best horse and it's about the money. It is not built

1 on sweat, ladies and gentlemen. It's built on the money from his  
2 brothers, family. Who do you trust more than family? That's why  
3 Jose Trevino has the horses.

4 \$19,000 cash payment, \$34,000 total to the Adolphus  
5 Hotel. What you don't see, you don't see an estimate. You don't  
6 see a quote. You don't see a bill for Bando El Recodo. The  
7 reigning inference is that their brothers gave their niece this  
8 band for their wedding, their favorite band. Even using Ms.  
9 Williams' numbers at trial, it's still 8,500 percent. And why  
10 are there no tax returns? Who fills out the tax returns? The  
11 tax person. Garbage in, garbage out. That's why you have the  
12 bank records.

13 We're not going to rely on tax returns prepared by Jose  
14 Trevino. We're going to rely on the bank records showing the  
15 money going in and out of the account. That's why there's no tax  
16 returns. This isn't an auditing case. This is a criminal case.

17 The knowledge that a mason goes from \$22,000 a year to  
18 \$2 million a year, again, this is where you get to apply your  
19 reason and your common sense. That's my favorite quote of this  
20 trial. This horse comes into this auction unprepared. This  
21 horse comes into that auction being bought less than a month  
22 earlier for \$50,000 by Jose Trevino. And when I say bought, it  
23 should be in quotation marks because if you recall the testimony  
24 of Hernando Guerra, this money went right back into the insurance  
25 payments.

15:21:33 1 You have two checks by Alfonso Del Rayo to pay for this  
15:21:40 2 horse. Not as Ms. Williams says, not some random person.  
15:21:44 3 Alfonso Del Rayo-Mora. This man, this man who was kidnapped, who  
15:21:49 4 was beaten, whose family is threatened, was told, if you don't  
15:21:52 5 buy a horse, it's not going to go well for you. Not some random  
15:21:57 6 person. Jose Trevino nets \$310,000 on a horse that was sold for  
15:22:03 7 \$15,000 by Russell Stooks from the Lucky 7. \$310,000 of clean  
15:22:10 8 money.

15:22:12 9 Thirty-five mares. Fernando Garcia walks into AQHA  
15:22:20 10 with 35 transfers, all to 66 Land, owned by Jose Trevino. Those  
15:22:28 11 horses are then leased to themselves to Zule Farms. They're not  
15:22:33 12 leased to Luis Aguirre. There's no transfer to you Luis Aguirre.  
15:22:40 13 There's a man with a five-page breeding contract. Here's a man  
15:22:42 14 with billing records. Here's a man with breeding records and not  
15:22:45 15 a single mention of Luis Aguirre. I agree with the defense on  
15:22:49 16 this. This is a handshake deal. This is a handshake deal  
15:22:53 17 between members of the conspiracy. Why do we know that? Because  
15:22:56 18 that's how much money changes hands. Zero.

15:23:00 19 \$122,500 check that was void. There is absolutely no  
15:23:05 20 money, no agreements, nothing to indicate anything but a transfer  
15:23:10 21 of these horses to Jose Trevino, including the horse that Jose  
15:23:15 22 Trevino says, buy, buy, buy, to Tyler Graham. He finally gets a  
15:23:20 23 hold of that horse and it's put in his name. \$875,000 for one  
15:23:25 24 horse for which he paid absolutely nothing.

15:23:32 25 Four minutes, you have Victor Lopez paying cash in

15:23:37 1 Laredo, according to Ed O'Dwyer, for a roundtrip ticket returning  
15:23:44 2 the same day to Oklahoma City. In the parking lot, if you  
15:23:47 3 remember the video, you see him for four minutes get in that  
15:23:49 4 truck going back and going back down to Laredo. When this man is  
15:23:53 5 pulled over, he lies. He lies. I was not at the airport. He  
15:24:00 6 has \$5,000 in his hand. He was not at the airport. So we can  
15:24:04 7 talk about the lack of phones. We can talk about not tapping the  
15:24:08 8 phones. This is how he's getting his information. A money drop  
15:24:12 9 and four minutes of instructions.

15:24:14 10 And while we're talking about the phones, what they  
15:24:16 11 failed to mention was the BlackBerry found in his house. A  
15:24:20 12 Mexican tel-cell with two numbers on it found in Jose Trevino's  
15:24:26 13 house in Lexington, Oklahoma. Just an ordinary guy. You have  
15:24:32 14 the wiretaps. I would ask that you read all the wiretaps because  
15:24:36 15 they talk about "Chevo" Huitron. They talk about Jose Trevino  
15:24:40 16 and they talk about "Pancho" Colorado in more than one spot.  
15:24:46 17 When no one's listening, when no one's watching, when you think  
15:24:50 18 you're covered, that's when the truth comes out, ladies and  
15:24:53 19 gentlemen.

15:24:53 20 This is a wiretap. This is the wiretap that the  
15:24:57 21 defense have been asking for this whole trial. So when they're  
15:25:01 22 talking about Jose Trevino being an ordinary guy, I agree. You  
15:25:06 23 can't put in "40's" name, so you've got to put it in the clean  
15:25:10 24 guy's name. And what horse are they talking about? El Huesos,  
15:25:16 25 Tempting Dash.

15:25:17 1 MR. FINN: Your Honor, excuse me. Mr. Gardner, I've  
15:25:20 2 got to object. This wiretap conversation was a month or two  
15:25:24 3 after Tempting Dash won, and I think this is a false inference  
15:25:28 4 drawn -- to be drawn by the evidence and I've got to object.

15:25:31 5 THE COURT: All right. The objection is overruled.  
15:25:34 6 The jury will remember the evidence and they have the exhibits.

15:25:38 7 MR. GARDNER: Let's look back at the date. And I asked  
15:25:41 8 you to look at the dates of all the other wiretaps because they  
15:25:45 9 show October 24, 2009 when they're applying the batteries and  
15:25:49 10 when they're applying the money to the gate starters for Tempting  
15:25:52 11 Dash.

15:25:57 12 Over \$100 million, you heard Special Agent Michael  
15:26:02 13 Fernald say that he was barely breaking even. Barely breaking  
15:26:08 14 even. Here's a man who is worth over \$100 million that's going  
15:26:15 15 to a 26-year-old loan shark for 120 percent interest per year,  
15:26:21 16 ten percent per month, getting hard currency loan. A man barely  
15:26:27 17 breaking even. He's going to a loan shark and what's he asking  
15:26:30 18 the loan shark to do? He's asking that loan shark Arian Jaff to  
15:26:35 19 send \$300,000 to Heritage Place, rather than doing it himself.

15:26:39 20 And then, he asked for more and what does the loan  
15:26:42 21 shark say? I can't give it to you until you give me money back.  
15:26:46 22 And look at the dates, ladies and gentlemen, November 14,  
15:26:50 23 November 15 and November 16. And Arian Jaff, once he gets the  
15:26:54 24 money back -- instead of Francisco Colorado-Cessa wiring it  
15:26:58 25 himself, he gets Arian Jaff to wire the rest of it to Heritage

15:27:04 1 Place for the purchase of horses.

15:27:05 2 Talking about concealment and the money, Miguel  
15:27:14 3 Almazon, a member of ADT. Why is Francisco Colorado-Cessa wiring  
15:27:19 4 \$50,000 to a gofer, a horse hauler? The links, ladies and  
15:27:28 5 gentlemen, between themselves, their own actions are what convict  
15:27:31 6 them, not the cooperators. Sending \$50,000 by wire, some gofer,  
15:27:37 7 so he can funnel that money to other members of the conspiracy is  
15:27:40 8 the essence of this case.

15:27:44 9 Fly First Down. I submit to you, the only reason this  
15:27:49 10 check was written is because he had to justify the insurance  
15:27:53 11 payment. You have to justify the cost for that insurance payment  
15:27:56 12 to happen once this horse dies. And what happens six months  
15:28:00 13 later or three months later? \$50,000. Jose Trevino just netted  
15:28:06 14 \$350,000 of what appears to be clean, washed money. Their  
15:28:13 15 actions, not the cooperators.

15:28:18 16 Two numbers I'd like you to look at here. Of these 42  
15:28:24 17 horses and a nominee ownership of this man over here, "Pancho"  
15:28:28 18 Colorado, many are found in Lexington, Oklahoma. Many are cared  
15:28:33 19 for by Carlos Nayan. If he's such a horse aficionado, why  
15:28:39 20 doesn't he own all these horses?

15:28:40 21 The other number I want you to look at, the 10 million.  
15:28:43 22 The \$10 million that he spends for 121 horses over three years,  
15:28:49 23 without ever telling his personal banker, Mr. Guerrero from UBS.  
15:28:54 24 Not a word. He had no idea. Why? It's not his money. His  
15:29:00 25 money is in UBS. His retirement money is in UBS. This is money

15:29:04 1 that he can't pay and operate his business at the same time.

15:29:10 2 This is Zeta drug money.

15:29:15 3 And if he goes to Houston in November, why is he still  
15:29:19 4 buying horses in January if he's scared? If Carlos Nayan is  
15:29:24 5 forcing him to buy these horses? Look at the bottom line. He  
15:29:27 6 spends over a million dollars on 19 horses, just prior six months  
15:29:33 7 prior to the government making arrests in this case. And he's  
15:29:36 8 got two horses left for \$19,000. If he's such a horse  
15:29:43 9 aficionado, where are his horses?

15:29:45 10 Here's the call. And no other part of this case do you  
15:29:54 11 see "Pancho" and Carlitos together except for Francisco  
15:29:57 12 Colorado-Cessa and Carlos Nayan. Look at all the wiretap  
15:30:02 13 transcripts. You'll see Mr. Colorado's name in there more than  
15:30:06 14 once. You'll see "Chevo's" name in there more than once. \$2.2  
15:30:12 15 million that he spends on horses. This is the only comment I  
15:30:19 16 will make about the cooperators. Ms. Reed comes in and says,  
15:30:22 17 this is the only time we gave out a high buyer's trophy in the  
15:30:29 18 history of Ruidoso Downs. That is an incredible detail for  
15:30:32 19 cooperators to get together and remember and believe it has some  
15:30:36 20 significance. That's the only comment. Everything else is up to  
15:30:40 21 you.

15:30:40 22 He buys 23 horses, bid on by Carlos Nayan. See him  
15:30:48 23 taking the pictures of the board, raised their hand by Raul  
15:30:53 24 Ramirez for the \$2.2 million, and of those two horses, we see Fly  
15:30:57 25 First Down and Night Jasmine. You recall Night Jasmine was

15:31:02 1 renamed Juanita Mi Amor. Juanita my love. Not Juanita my  
15:31:09 2 mother. Juanita my love.

15:31:13 3 This is what Mr. Womack said about Mr. Garcia, an  
15:31:18 4 honest horse guy, and the thing about this article is when it was  
15:31:20 5 saved in the computer, it was saved under the title "Interesting  
15:31:24 6 Article," as you heard from Special Agent Scott Lawson. This  
15:31:28 7 wasn't a randomly generated view on the internet. This article  
15:31:33 8 was saved by Fernando Garcia and the only computer he's had for  
15:31:37 9 the last four years. That's knowledge.

15:31:42 10 And when Mr. Womack said that this transaction can only  
15:31:45 11 be used for a limited purposes, he's absolutely right, and that  
15:31:48 12 limited purpose is knowledge. Fernando Garcia doesn't have  
15:31:53 13 knowledge, why does he take four-and-a-half hours to drive across  
15:31:58 14 Phoenix to deposit \$81,000 cash in nine separate banks? Why?

15:32:10 15 In every joke, in every jest, there's a kernel of  
15:32:16 16 truth. It was Adan Farias who put this in his phone, not Mr.  
15:32:20 17 Quintero. There's a kernel of truth. Because Adan Farias just  
15:32:25 18 came back from visiting "40" and he puts this in his phone in  
15:32:31 19 Ruidoso. And when Mr. Womack asked you, where's the e-mails,  
15:32:37 20 here it is right here.

15:32:40 21 What honest horse guy, what horse agent, what horse  
15:32:44 22 whisperer, horse expert, what type of any reputable person does  
15:32:50 23 this? Toss your cell, get rid of everything on your Facebook, on  
15:32:59 24 your computer. What kind of reputable person does that? And  
15:33:02 25 when you look at the rest of the e-mails, you'll see that



15:33:05 1 Fernando Garcia does get new phones. He does get new PIN  
15:33:08 2 numbers. I ask you to go through all the e-mails.

15:33:11 3 And when we're talking about no calls, this call in  
15:33:14 4 itself, 17 horses bought. You know how Jose is. Don't tell  
15:33:25 5 Jose. Don't tell Jose Trevino. You know how he is. He wants to  
15:33:29 6 keep his business private and out of the limelight. When no  
15:33:32 7 one's watching, when they think no one's paying attention, their  
15:33:36 8 own words, their own phone calls damn them. And when you go  
15:33:41 9 through these transcripts, all 30 of them, you'll see calls from  
15:33:43 10 Jose Trevino to Tyler Graham talking about Alfonso Del Rayo-Mora  
15:33:48 11 and the money that he was expecting to get from his payments.

15:33:52 12 This speaks for itself. How does it relate? It  
15:34:03 13 relates to Fernando Garcia taking care of Bonanza, which is  
15:34:08 14 Francisco Silva-Ramos, who has three houses away in Tuxpan from  
15:34:13 15 Mr. Francisco Colorado. It's the links, ladies and gentlemen.  
15:34:17 16 It's the links. They're linked together. They're not buying  
15:34:20 17 horses from anyone else. It's the shell companies, the front  
15:34:25 18 companies, the nominee companies. It's all one big conspiracy,  
15:34:29 19 as we've alleged, to buy and race horses.

15:34:34 20 Why is Fernando Garcia in a winning picture horse for  
15:34:43 21 Tremor Enterprises? Because Angel Morales, Fernando Garcia is  
15:34:50 22 making sure the kidnapped victim does what he's told because if  
15:34:53 23 he doesn't do what he's told, something's going to happen to his  
15:34:55 24 family. And when Mr. Del Rayo gets an invitation to Carlos  
15:35:00 25 Nayan's wedding, it's not because he wants to go, because he

1 feels he has to go, because Carlos Nayen is giving him a \$2  
2 million loan to pay to the political people in Veracruz.

3 Carve out a better life. When Mr. Esper says there's  
4 no phone calls, we got phone calls in his phone, his flip phone  
5 to "Yo Yo," the accountant, Ricardo De la Vega, Victor Lopez,  
6 Carlos Nayen and "Saltillo," "El Negro," Sergio Rincon, the same  
7 man who gets \$50,000 in a wire from ADT Petro Servicios. He's  
8 writing checks. Why don't they have any money? They're flowing  
9 it through. It goes into their accounts and it goes flow through  
10 to Sergio Rincon. It goes flow through to their horsemen's  
11 accounts, as you'll see in a second.

12 They have cash. I think Mr. Mayr said home builder  
13 about eight times. This is Jesus Huitron's horsemen's account.  
14 He receives \$18,500 in two structured amounts in Laredo, Texas.  
15 The same day he writes the check to his horsemen's account, the  
16 same day he sends that money to Hernando Guerra, Carmina, LLC,  
17 Fast And Furious, Garcia Bloodstock, Azoom and Oscar Montemayor  
18 for a total of \$18,000. He's a flow-through; that's why he  
19 doesn't have any money. He's getting the best horses, he's  
20 training the best horses, he's making money off that, and he's  
21 allowing them to use his account.

22 And what does his own witness say? Shae Cox says only  
23 the owner can pull money out. Nobody can put it in, but only the  
24 owner can pull money out. And Mr. Mayr says, where's the other  
25 evidence? He forgot about this, ladies and gentlemen. There's

15:37:17 1 the 18,5 going in, there's the money he's paying to the  
15:37:20 2 horsemen's bookkeeper, and there's the \$3,200 he's paying to  
15:37:25 3 Sergio Rincon that was just structured into his account. Signed  
15:37:29 4 not by Jessica, not by Adrian, not by Isabel, not by Erica,  
15:37:38 5 signed by Jesse Huitron.

15:37:39 6 His own words. When no one's watching, when no one's  
15:37:47 7 looking, when no one's paying attention. He doesn't say he's a  
15:37:51 8 house builder. He doesn't say he's a home builder. He says, my  
15:37:55 9 brother and I are in the horse business. My brother and I have  
15:38:00 10 the accounts, not anyone else in the family. I agree with Mr.  
15:38:07 11 Mayr. I think Jessica Huitron knows it's a family business. I  
15:38:11 12 think all the Huitrons know. They all know the cash coming in.  
15:38:14 13 You heard it on the stand. She knew something was wrong with the  
15:38:17 14 cash.

15:38:19 15 Who was the owner? They both are. It's their  
15:38:26 16 business. They're intertwined. They're inseparable. What  
15:38:32 17 "Chevo" Huitron does, Jesus Huitron does. Somebody gave Jesus  
15:38:42 18 Huitron's bank account to Victor Lopez. Someone gave his  
15:38:46 19 birthday to Victor Lopez. Someone gave his Social Security  
15:38:50 20 number to Victor Lopez, if you're to believe what Mr. Mayr says.

15:38:54 21 Ladies and gentlemen, I don't care about the Cash  
15:38:56 22 Transaction Reports, Currency Transaction Reports. If you're the  
15:38:59 23 owner of a small company and you see over a half a million  
15:39:05 24 dollars coming into your accounts in less than two years, you  
15:39:09 25 know. And how do we know that? Because their own witnesses, Mr.

1 Casler, Ms. Cox, Ms. Segura, all say that Jesus Huitron knows  
2 what's going on. He understands the bottom line. He checks the  
3 accounts. Not Jessica, not Isabel, not Adrian.

4 You want to talk about e-mails. Huitron e-mail, not  
5 Jessica Huitron but huitronracing@yahoo.com e-mails, and what do  
6 they show? They show all the coconspirators, nominee companies  
7 and names being sent to the Anri2319 e-mail address, which is  
8 Victor Lopez. This is the folder that the government showed you,  
9 Government's Exhibit 65. That single folder contains the entire  
10 conspiracy. It's put in one folder with the exception of Jose  
11 Trevino. And when you look at a Jose Trevino folder, you see the  
12 receipts for other members of the conspiracy.

13 So when Mr. Mayr says, where's the evidence, ladies and  
14 gentlemen, he's ignoring this. When Mr. Mayr says, where's the  
15 evidence, they're ignoring this. And you don't have to be an  
16 expert in handwriting to tell that these are not written in the  
17 same hand. This is where they get it from. They have the e-mail  
18 address to Fernando Garcia. They have the e-mail address to  
19 Victor Lopez. And they have the e-mail address to Jose Trevino.

20 Who's the boss? As I said before, they both are. It's  
21 indistinguishable. I don't think they're doing anything  
22 nefarious here. I just think that they both believe it's their  
23 company and it is. It's their family company.

24 Normally I would say in response to defense attorneys,  
25 they've given you all these examples of how nothing matches up

1 and pointed out everything. You can't look at a conspiracy case  
2 that way. Those are snapshots in time. The overt acts are  
3 snapshots in time. The conspiracy is the movie. It's the entire  
4 period from 2008 until June 12th of 2012. You have to consider  
5 the whole. Normally I would say that.

6 But in this case, as my partner said, actions speak  
7 louder than words and a picture is worth a thousand words. This  
8 is Government's Exhibit 1, and there's a reason it's Government's  
9 Exhibit 1, because if anything describes this conspiracy, it's  
10 "40" and "42" and Carlos Nayen taking care of a horse that he  
11 should have no relation to with his arm -- or Mr. Huitron's arm  
12 around him.

13 Ladies and gentlemen, I thank you for your patience. I  
14 ask you to find Jose Trevino, Francisco Colorado-Cessa, Fernando  
15 Garcia, Eusevio Huitron and Jesus Huitron guilty of conspiracy to  
16 launder money. Thank you.

17 THE COURT: Members of the jury, I'm going to put you  
18 in the jury room for a few minutes, please.

19 (Jury not present.)

20 THE COURT: Counsel, if you'll get your jury diagrams  
21 out, please. As I indicated to you today, Juror No. 9, whose  
22 original number was 28, was either advised of a statement in her  
23 husband's office or heard a statement in her office, something to  
24 the effect she wasn't sure that the Zetas are close, meaning  
25 proximity.

15:43:59 1 Then Juror No. 13, original juror No. 205, advised the  
15:44:12 2 marshal that Tyler Graham's sister, who was named later on, who  
15:44:18 3 did not testify but her name came into the record, works on a  
15:44:23 4 board that he's involved with, that it wouldn't make any  
15:44:30 5 difference, but he wanted that known.

15:44:39 6 We still have alternate jurors. So I'll hear any  
15:44:41 7 motions that you wish or. First off, it's the government's case,  
15:44:49 8 I'll let the government decide.

15:44:50 9 MR. GARDNER: Your Honor, we have no motions to make,  
15:44:52 10 given the fact that both jurors said they could disregard what  
15:44:54 11 was told to them and deliberate.

15:44:56 12 THE COURT: All right. So the government says go as  
15:45:01 13 selected. What says the defense?

15:45:05 14 MR. DEGEURIN: Your Honor, I have a -- 13 is an  
15:45:10 15 alternate, anyway, right?

15:45:11 16 THE COURT: Well, it's an alternate, anyway, unless.

15:45:15 17 MR. DEGEURIN: Yeah. Well, with regard to the lady  
15:45:17 18 that heard the Zetas are close, I don't move to strike her. I  
15:45:24 19 mean, how did it come to the Court? It goes through the marshals  
15:45:27 20 to the Court?

15:45:28 21 THE COURT: That came by telephone immediately to the  
15:45:31 22 marshal's office. They had the marshal's office 24-hour-seven  
15:45:36 23 number and that came by telephone. The alternate juror's comment  
15:45:42 24 came the following morning to the marshal.

15:45:48 25 MR. DEGEURIN: I think she did exactly what she's

15:45:50 1 supposed to do, call the marshals when something like that  
15:45:53 2 happens. Unless this was some alarm -- I didn't hear the call or  
15:45:56 3 anything. Unless there was some alarm on her part, unless she  
15:45:59 4 added that she is -- whether it scared her or anything like that,  
15:46:04 5 and I have no motion.

15:46:05 6 THE COURT: She was not alarmed in any way. She was  
15:46:09 7 following instructions that I've given the jury. Mr. Finn.

15:46:12 8 MR. FINN: Your Honor, I think I heard you say that  
15:46:15 9 this particular juror indicated it would have no impact on her  
15:46:20 10 verdict? Is that -- did I hear correctly?

15:46:23 11 THE COURT: The first one made that express statement.  
15:46:25 12 The other one said that she was not alarmed in any way, and she  
15:46:30 13 wanted to give them that information. They didn't have that long  
15:46:33 14 a conversation.

15:46:34 15 MR. FINN: Fair enough. I'm not going to make any  
15:46:36 16 requests.

15:46:38 17 THE COURT: Mr. Womack.

15:46:39 18 MR. WOMACK: No, your Honor. I don't.

15:46:41 19 MR. ESPER: None, your Honor.

15:46:42 20 MR. MAYR: None on behalf of my client, your Honor.

15:46:44 21 THE COURT: All right. So we will, then, have the jury  
15:46:47 22 as selected, the first twelve do the deliberations. If you will  
15:46:52 23 bring them back.

15:46:56 24 MR. FINN: Your Honor, could I bring something to your  
15:46:58 25 attention, or at least talk to you about it? The issue of

15:47:01 1 sequestration. At this point, I haven't spoken with the other  
15:47:05 2 defense counsel, or Mr. Gardner, or Ms. Fernald, but at this  
15:47:09 3 point, I'm not requesting that, but depending on how things go  
15:47:13 4 and how long they go, would it be appropriate for me to revisit  
15:47:17 5 that at some point? I mean, right now, I'm not asking for it.  
15:47:21 6 But I just wanted to make sure you didn't think I was waiving  
15:47:24 7 that.

15:47:24 8 THE COURT: Well, usually the Court makes that  
15:47:26 9 decision, and I have not seen anything that would indicate that I  
15:47:30 10 need to sequester the jury. And no lawyer has indicated but, as  
15:47:35 11 far as I'm concerned, on the record, there's never a waiver of  
15:47:39 12 anything.

15:47:39 13 MR. FINN: Okay.

15:47:40 14 THE COURT: So long as the trial is going on.

15:47:42 15 MR. FINN: Thank you, your Honor.

15:47:44 16 MR. DEGEURIN: Your Honor, one more matter. It was a  
15:47:48 17 little confusing about the timing when we declare the forfeiture  
15:47:52 18 issues to be decided by the jury or by the Court, but in my case,  
15:47:58 19 our case, we elect that the Court decide.

15:48:05 20 THE COURT: All right.

15:48:08 21 MR. ESPER: So join, your Honor.

15:48:10 22 MR. MAYR: We will join in that, also, your Honor.

15:48:13 23 MR. WOMACK: We, as well, your Honor.

15:48:14 24 THE COURT: And, really, the consequence of that,  
15:48:16 25 counsel, is that you don't go into an immediate second trial at



15:48:21 1 the delivery of the jury. All right. Well, everybody's agreed  
15:48:23 2 on that.

15:48:24 3 That's fine. Bring the jury.

15:48:26 4 (Jury present.)

15:49:21 5 THE COURT: Members of the jury, I've now signed the  
15:49:52 6 instructions, a copy of which each of you have and has been read  
15:49:56 7 into the record. The verdict of the jury is to be attached. It  
15:50:03 8 has five questions. If you've answered any of the questions  
15:50:07 9 guilty, then you need to respond to the definitions. They're  
15:50:13 10 very easy to follow. You won't have any difficulty once you read  
15:50:17 11 the instructions. In every case that lasts, actually, sometimes  
15:50:25 12 one or two days, but particularly days that run more than a week,  
15:50:30 13 I have alternate jurors. The last four on the second row are  
15:50:36 14 alternate jurors.

15:50:39 15 While the rest of you will deliberate and reach a  
15:50:43 16 verdict, they will be upstairs in a different room, and if  
15:50:49 17 they're needed, then they can be utilized. And the reason for  
15:50:53 18 that is just three months -- within the last three months, I had  
15:50:59 19 a one-day trial, but I took the jury selection last because  
15:51:04 20 somebody else had a jury trial that was going to last for either  
15:51:08 21 four or six days, and so, I took the jury panel second. We  
15:51:13 22 started the trial and one of the jurors had a call at 4:00 in the  
15:51:19 23 morning that her husband had had a hemorrhage and she just did  
15:51:24 24 what anybody should do. She got in her car and drove to Houston  
15:51:28 25 where he was going to have emergency surgery that day.

15:51:32 1 I still do not know what happened, but the next day, we  
15:51:36 2 only had eleven jurors. And if you just wait, you have to wait  
15:51:42 3 and start the trial when all twelve come back, it could be a  
15:51:46 4 week, it could be a year, it could be a month or you -- or the  
15:51:50 5 trial is over and you dismiss the criminal charge because when  
15:51:55 6 you are sworn, that's when we lawyers say jeopardy attaches. So  
15:52:02 7 we have to have alternate jurors and I appreciate your being  
15:52:06 8 here.

15:52:09 9 If we go into tomorrow before a verdict's reached, be  
15:52:13 10 sure the four of you bring a good book or that type of thing.  
15:52:17 11 These are beautiful walls, but they get old after a little while.  
15:52:20 12 And let's get your things first out of the jury room. And then,  
15:52:27 13 I'm going to submit the case to you.

15:52:31 14 Mrs. Sims will bring you the exhibits. If you made  
15:52:37 15 notes and you have demonstrative evidence, if you need anything  
15:52:42 16 specific, write a little note, and Mrs. Sims will be able to help  
15:52:49 17 you find that particular exhibit. And any other information that  
15:52:55 18 you need, ask Mr. Hall, and he will either contact me or be able  
15:53:01 19 to get that information.

15:53:04 20 Now, I told you not to talk to anybody about the case.  
15:53:09 21 And those rules still apply unless all twelve of you are seated  
15:53:15 22 at the table listening. If somebody has to go to the restroom or  
15:53:18 23 you take a break, just to stretch or even use the facilities,  
15:53:23 24 stop talking about the case. You talk about the case only when  
15:53:26 25 the other eleven are listening to the speakers. As soon as you

15:53:31 1 get a presiding juror selected, if you'll write that name down  
15:53:36 2 and give it to Mr. Hall so that he can give it to me, I will know  
15:53:42 3 that.

15:53:43 4 The time now will be yours. You can stay as late as  
15:53:48 5 you wish. I just need to know how late you want to stay. You  
15:53:52 6 can -- if you haven't determined a verdict today, I need to know  
15:53:57 7 when you want to come back in the morning so that we can make the  
15:54:01 8 appropriate arrangements. But the time is yours. You just tell  
15:54:05 9 me so that I can facilitate the time how long you wish to work  
15:54:09 10 and when you wish to work. Those are the only further  
15:54:15 11 instructions I have.

15:54:16 12 I'll have Mr. Hall sworn, please.

15:54:19 13 THE CLERK: Do you solemnly swear or affirm that you'll  
15:54:22 14 keep this jury during their retirement in some convenient place,  
15:54:26 15 removed from the presence of others; and that you will not  
15:54:29 16 without leave of court allow anyone to speak to them; and that  
15:54:32 17 you will not without leave of court speak to them yourself except  
15:54:36 18 to ascertain whether they have agreed upon their verdict and to  
15:54:39 19 attend to their desire for necessities; that you will well and  
15:54:43 20 faithfully discharge your duties as bailiff of this court, so  
15:54:46 21 help you God?

15:54:49 22 COURT SECURITY OFFICER: I will.

15:54:49 23 THE COURT: I place the jury in the hands of Mr. Hall.  
15:54:52 24 All stand for the jury, please.

15:55:26 25 (Jury retires to deliberate.)

15:55:30 1 THE COURT: Counsel, when we get any kind of message,  
15:55:36 2 the first one will probably be on the presiding juror, I will  
15:55:41 3 indicate. And as soon as I know how late they want to stay this  
15:55:46 4 evening, I'll let you know. I appreciate the professional way  
15:55:51 5 this case was tried. Complex case. It had a lot of publicity,  
15:55:56 6 but I'm very proud of all of the lawyers.

15:55:58 7 We'll be in recess until the jury advises. I have  
15:56:03 8 nothing tomorrow, by the way, but Friday is a very large day with  
15:56:08 9 sentencings, 20 or 25 people we're going to sentence, so you have  
15:56:13 10 to have everything removed by Friday.

15:56:13 11 (Proceedings adjourned.)

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